

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :

13-CR-150 (WFK)

-against-

United States Courthouse
Brooklyn, New York

MOHAMMAD AJMAL CHOUDHRY,

July 1, 2014

10:00 a.m.

Defendant.

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TRANSCRIPT OF CRIMINAL CAUSE FOR JURY TRIAL
BEFORE THE HONORABLE WILLIAM F. KUNTZ, II
UNITED STATES DISTRICT JUDGE

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1 (In open court, outside the presence of the jury.)

2 COURTROOM DEPUTY: We're here for criminal trial,
3 USA versus Choudhry, Docket No. 13-CR-150.

4 Counsel, may you please state your appearances for
5 the record.

6 MS. HECTOR: Amanda Hector, Margaret Gandy, Richard
7 Tucker for the Government, along with Special Agent Matthew
8 Maguire. Good morning, Your Honor.

9 THE COURT: Good morning.

10 MR. SOSINSKY: For Mr. Choudhry, Fred Sosinsky.
11 Mr. Choudhry is on his way out, judge.

12 THE COURT: Good morning.

13 MR. SOSINSKY: Good morning, sir.

14 (Defendant enters.)

15 THE COURT: Are we ready to go?

16 MS. GANDY: If we could just address one preliminary
17 matter, Your Honor, but we otherwise are ready to call our
18 next witness.

19 When we left off yesterday, Your Honor was obviously
20 on notice there was an issue counsel and the Government were
21 going to discuss regarding outstanding possibility of
22 impeachment of Rukhsana Kousar. I know Your Honor's position
23 was you were not interested in having her recalled.

24 THE COURT: Your Honor's ruling was he's not going
25 to allow her to be recalled, which is different.

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1 Counsel had ample opportunity, both the Government
2 and defense counsel, to cross-examine this witness and to
3 examine this witness. There was nothing new that came out on
4 redirect of the witness that would entitle the defendant to a
5 recross.

6 So if you want to stipulate to something with him,
7 that's fine. If you don't, that's fine, but the record is
8 clear. There's nothing new here. You wanted to impeach her
9 credibility, you did that six ways from Sunday any sense you
10 could do it, and if you want to stipulate to something, again
11 I invite you to do that, but I'm not calling that witness
12 back.

13 MS. GANDY: Would Your Honor be willing to hear just
14 a bit more on the record?

15 THE COURT: I'm always willing to listen.

16 MS. GANDY: Because Your Honor is certainly right --

17 THE COURT: I know.

18 MS. GANDY: -- that this is not an issue that was
19 raised in redirect and left outstanding in that sense.

20 THE COURT: I know. Go ahead.

21 MS. GANDY: The issue arose, such that it is,
22 documents that were provided to counsel in advance of trial
23 that were in Urdu, and the Government realized after Ms.
24 Kousar's testimony ended that we had a very incomplete and
25 sort of rudimentary English translation of some parts of one

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1 of the documents that may have suggested that she was the
2 source of information that was inconsistent with something she
3 testified about. Meeting our obligations, we provided it to
4 counsel, and again that part of it, the English translation,
5 incomplete as it was, was provided after she came off the
6 stand.

7 It's for that reason, so that that opportunity to
8 question her on it is not left outstanding, that we would ask
9 Your Honor to reconsider and perhaps allow defense counsel
10 to -- well, I guess we would recall her for a very limited
11 issue of recross.

12 THE COURT: What questions does defense counsel wish
13 to ask?

14 MS. GANDY: It's my understanding --

15 THE COURT: No, no. You tell me what you want to
16 ask.

17 MR. SOSINSKY: Good morning, Your Honor.

18 Just so the record is clear, the information that
19 was provided --

20 THE COURT: Do you understand my question?

21 MR. SOSINSKY: Judge, I did.

22 THE COURT: No, excuse me. What questions do you
23 want to ask this witness?

24 MR. SOSINSKY: Okay.

25 THE COURT: Tell me.

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1 MR. SOSINSKY: Yes.

2 THE COURT: Question one is what?

3 MR. SOSINSKY: Question one is: Did you tell the
4 Pakistani police that you were standing approximately
5 mid-block on the long street that appears on Government
6 Exhibit -- I don't have the exhibit before me, but the
7 photograph that we had previously seen of the street where the
8 shooting took place? She would either say yes or no. I
9 would -- if she says no, I would place before her a map, a
10 diagram, completed and her name is on the top of this
11 document, that has an indication with a letter and a legend
12 that says where eyewitnesses Rukhsana Kousar and Seemab Kousar
13 observed the shooting from.

14 It's undisputed, just if I could to make the record,
15 it's undisputed that the --

16 THE COURT: You know, I asked you what questions you
17 wanted to ask. Just answer my question.

18 MR. SOSINSKY: Judge, I apologize.

19 THE COURT: What else do you want to ask?

20 MR. SOSINSKY: If the witness says no, I would show
21 the witness this document, which is in Urdu, which I
22 understand the witness either understands completely or in
23 part, the language, and ask her to take a look at it, to read
24 the legend next to the letter F that appears in this which has
25 as a description of what that letter F is Rukhsana Kousar and

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1 Seemab Kousar, where the eyewitnesses were at the time of the
2 shooting and see if that helps her to refresh her recollection
3 at that point as to whether or not she told the police back on
4 February 25th, 2013 that that's where she claimed to have
5 observed the shooting.

6 Again --

7 THE COURT: What else do you want to ask?

8 MR. SOSINSKY: That's the only subject matter that I
9 would want to get into.

10 THE COURT: Okay. You have my ruling. Let's go.
11 Anything else?

12 MR. SOSINSKY: Can we just, judge, can we just mark
13 this document then as a court exhibit? That's all. Can we
14 mark this document?

15 THE COURT: No, you mark it as a defense exhibit on
16 your case. You said you're going to call witnesses, right?
17 You're going to put in a case, so you'll do it that way.

18 MR. SOSINSKY: But, judge, this document doesn't
19 pertain to any witness that I would call. I'm just asking for
20 purposes of make a record as to what document the Government
21 and I are referring to, if we can just mark this document as a
22 court exhibit, or as a defense exhibit.

23 THE COURT: What did you not understand? I just
24 said mark it as a defense exhibit.

25 MR. SOSINSKY: Okay.

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1 THE COURT: I'm not marking it as a court exhibit.

2 MR. SOSINSKY: Okay.

3 THE COURT: And the prosecutors obviously aren't
4 marking it as a prosecution exhibit. So you mark it as a
5 defense exhibit, unless the prosecutors want to mark it as a
6 prosecution exhibit.

7 MR. SOSINSKY: Okay.

8 THE COURT: Do you want to mark it as a prosecution
9 exhibit?

10 MS. GANDY: I don't care how it's marked, Your
11 Honor. I just think -- I agree --

12 THE COURT: Do you want to mark it as a prosecution
13 exhibit?

14 MS. GANDY: No.

15 THE COURT: I don't care how it's marked either.

16 I think this is ridiculous. I think this witness
17 was examined to a fare-thee-well about the events in question,
18 and I think it is absurd for you to be taking time, when we've
19 got a jury out here, to finish this case on this
20 non-substantive point, but if you want to go with it, that's
21 fine. Mark it any way you want or don't. The one thing
22 you're not doing is calling that witness back in this trial.

23 Yes, it is okay.

24 MR. SOSINSKY: I understand.

25 THE COURT: Yes, I am right. Yes, there's no

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1 problem with doing it the way I'm doing it.

2 Anything else for either side?

3 Are you going to mark it? How are you going to
4 mark it? Describe it, mark it, make it an exhibit,
5 prosecution or defense exhibit. I don't care.

6 MR. SOSINSKY: I've marked it, with the Court's
7 permission, as Defendant's Exhibit D, as in David.

8 THE COURT: Any objection to Defendant's Exhibit D,
9 as in David, coming in when it's offered?

10 MS. GANDY: Yes, Your Honor, I have. An objection
11 to it coming into evidence, absolutely.

12 THE COURT: You have an objection to D coming in?

13 MS. GANDY: Yes, we do.

14 THE COURT: What's your objection?

15 MS. GANDY: It's severalfold.

16 First of all, the document is in Urdu and we don't
17 have an English translation of the document.

18 THE COURT: But you can get an English translation,
19 right?

20 MS. GANDY: Presumably we could, but we have no way
21 of authenticating this document, which is why none of the
22 police documents from Pakistan have been introduced in the
23 Government's case. We certainly would have loved the
24 opportunity to do so, but we all are saddled with the handicap
25 of not being able to authenticate Pakistani police documents

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1 here in the United States without a police witness or someone
2 to authenticate it.

3 THE COURT: Did you try to get a police witness
4 here?

5 MS. GANDY: We did, Your Honor. Well, we submitted
6 an MLAT request for authenticated versions of police documents
7 from Pakistan that went unanswered.

8 THE COURT: So you want to cross-examine the witness
9 about a document that you can't get in evidence; is that
10 right?

11 MS. GANDY: We want to provide counsel with the
12 opportunity to ask the first of his two proposed questions. I
13 think if she --

14 THE COURT: On a witness concerning a document
15 allegedly taken statements by the Pakistani police in Urdu who
16 are not here.

17 Okay. Anything else?

18 MS. GANDY: So is it coming into evidence? I
19 wasn't sure on Your Honor's ruling on that aspect of it,
20 whether the document is coming into evidence.

21 THE COURT: We'll see when he offers it on his case
22 what the foundation will be.

23 MR. SOSINSKY: Judge, just so I'm clear, I'm not
24 going to be offering the document. I don't think I could do
25 so unless there was a stipulation between the parties, and

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1 there's not. So I'm just --

2 THE COURT: You could offer it and I could overrule
3 an objection.

4 MR. SOSINSKY: That's always a possibility.

5 THE COURT: Isn't that always a possibility?

6 MR. SOSINSKY: It's always a possibility.

7 THE COURT: One never knows, do one.

8 Anything else?

9 MR. SOSINSKY: Judge, I'm sorry, just to close this
10 out. Can we, since I know I'm not going to offer it, it's
11 going to remain marked for identification as Defendant's D,
12 and if we never hear about it again, that that's how it will
13 remain? In other words, I'm not going to offer the document.
14 I just want to make sure that it's part of the record.

15 THE COURT: Well, I don't know what it is that
16 you're marking if you're not offering it. So you have to
17 offer it and then I have to review it and I either admit it or
18 I don't.

19 If you guys stipulate that it comes in for whatever
20 limited purpose, which is what I've urged you to do, you can
21 do that, but if you don't want to do that, then don't.

22 MS. HECTOR: Your Honor, if I may --

23 THE COURT: Of course you may.

24 MS. HECTOR: -- just add one further point.

25 THE COURT: I'm happy to hear many further points.

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1 MS. HECTOR: The Government's position is that it's
2 important to do something, given the record that's been made,
3 to preserve -- to sort of address the issue so that it doesn't
4 become an issue down the road, that it's important to do
5 something to resolve this issue.

6 The problem that the Government sees is that a
7 stipulation is not an acceptable way for the Government to
8 handle it because --

9 THE COURT: Let me see the document. Mark it and
10 hand it up.

11 MR. SOSINSKY: It's marked already.

12 MS. HECTOR: -- for the following reasons.

13 THE COURT: Hang on.

14 (Perusing document.)

15 THE COURT: We have a document that is four pages.
16 It is in the language of Urdu; is that right?

17 MR. SOSINSKY: Yes.

18 THE COURT: It has been marked as Defendant's
19 Exhibit D; is that right?

20 MR. SOSINSKY: Yes, sir.

21 THE COURT: Do we have a translation of it into the
22 English language that exists anywhere in this proceeding?

23 MS. GANDY: No.

24 MS. HECTOR: No.

25 THE COURT: Has anyone translated it from Urdu to

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1 English?

2 MR. SOSINSKY: The Government has provided --

3 THE COURT: Has anyone translated it from Urdu into
4 English?

5 MS. HECTOR: Not fully or in any sort of certified
6 way.

7 THE COURT: Okay. Well, I'm directing the parties
8 to translate Defendant's Exhibit D into English and to provide
9 this Court within the next 24 hours with a translated version
10 of Defendant's Exhibit D into English.

11 Okay?

12 MS. HECTOR: Yes.

13 MR. SOSINSKY: Yes, sir.

14 THE COURT: Good. Anything else?

15 MS. HECTOR: If I could just finish the statement
16 that I was making.

17 THE COURT: You can finish, and "finish" is the word
18 that I would use.

19 MS. HECTOR: Certainly.

20 I think the Government's position is that the proper
21 way to handle the issue which would be acceptable to the
22 Government would be to recall the witness, not to enter a
23 stipulation.

24 THE COURT: I am not recalling the witness.

25 MS. HECTOR: Okay.

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1 THE COURT: I am not recalling the witness. I am
2 not recalling the witness.

3 I know you think it's the proper way to do it. The
4 Court does not think it's the proper way to do it because it's
5 not the proper way to do it. I'm not going to have this
6 witness sitting here again, being laughed at again, being
7 humiliated and subjected to pain again for no purpose. This
8 is a court of justice in the United States of America. This
9 isn't a debating society. Do not confuse what you are here to
10 do on either side.

11 This document is a piece of paper. Get it
12 translated. I'll admit it. It will become part of the record
13 and you can argue anything you want to argue about it with
14 respect to this piece of paper. You can stipulate to anything
15 you wish to with respect to this piece of paper. You can
16 handle it any way you want to. You're very smart lawyers.
17 You're very zealous in representing the interests of your
18 clients. The one thing you're not going to do is drag that
19 witness back into this courtroom. That's not happening, okay.
20 It's just not. It's just not.

21 Now, is there anything else I can help you with
22 before we call in the jury?

23 MS. HECTOR: No, Your Honor.

24 THE COURT: Anything else?

25 MR. TUCKER: I'm sorry, one easy thing.

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1 THE COURT: Everything's easy. Go right ahead.

2 MR. TUCKER: Government's Exhibit 1100 was the
3 excerpts from the grand jury testimony.

4 THE COURT: Yes, sir.

5 MR. TUCKER: I've cleaned that up and added the page
6 numbers. I've shown that to defense counsel and I gave Your
7 Honor's deputy a copy. With the Court's permission, we'd move
8 that into evidence now.

9 THE COURT: I thought that was already received in
10 evidence yesterday, you were just going to substitute a more
11 user-friendly copy.

12 MR. TUCKER: If that's the ruling, that's fine.

13 (Government's Exhibit 1100 was received in
14 evidence.)

15 THE COURT: Okay. Remember, 24 hours from now I
16 want a translation of Exhibit D and that's going to be
17 admitted into evidence.

18 MR. SOSINSKY: Yes, Your Honor.

19 MR. TUCKER: Thank you, Your Honor.

20 THE COURT: You're welcome.

21 Anything else?

22 MS. HECTOR: No, Your Honor.

23 THE COURT: Anything else, counsel?

24 MR. SOSINSKY: I'm sorry, no.

25 THE COURT: Thank you.

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1 Let's go.

2 (Pause in the proceedings.)

3 MS. GANDY: Your Honor, could the Government just
4 see a copy of Defense Exhibit D so we're confirmed of which
5 four pages we should be translating?

6 THE COURT: Why don't you make a couple of copies,
7 if you wouldn't mind.

8 THE CLERK: Okay.

9 MS. GANDY: Thank you, Your Honor.

10 (Pause in the proceedings.)

11 COURTROOM DEPUTY: All rise.

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1 (Jury enters the courtroom.)

2 THE COURT: Good morning, ladies and gentlemen.

3 Thank you for being here and being here promptly. We've had
4 some business with the lawyers. Please be seated.

5 And call your next witness.

6 MS. GANDY: Thank you, Your Honor. The Government
7 calls Nayab Asghar.

8 (Nayab Asghar enters the courtroom and takes the
9 witness stand.)

10 NAYAB ASGHAR,

11 called by the Government, having been first duly
12 sworn, was examined and testified as follows:

13 THE COURT: Please be seated, young lady. I've just
14 poured you some water.

15 Would you do me a favor, and when you speak, state
16 your name clearly into the microphone and spell it for the
17 court reporter, and then we'll have some questions. Okay?

18 THE WITNESS: Okay.

19 THE COURT: You can pull the mic down a little bit
20 closer to you.

21 So what is your name, please?

22 THE WITNESS: Nayab Asghar.

23 THE COURT: And would you spell that for the
24 reporter?

25 THE WITNESS: N-A-Y-A-B and my last name is Asghar,

N. Asghar - Direct / Gandy

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1 A-S-G-H-A-R.

2 THE COURT: Thank you. You may enquire, counsel.

3 MS. GANDY: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MS. GANDY:

6 Q Good morning, Ms. Asghar.

7 A Good morning.

8 Q It's my understanding that you're comfortable testifying
9 in English here today; is that right?

10 A Yes.

11 Q If at any point I ask you a question or anybody asks you
12 a question you don't understand, Ms. Verma can help you and
13 translate for you, okay. So just let us know.

14 A Okay.

15 MS. GANDY: Ms. Verma, if I could just ask you to
16 perhaps step back just so the jury can hear her more clearly
17 and see her more clearly.

18 Q Ms. Asghar, how old are you?

19 A 18 years.

20 Q Where were you born?

21 A I was in born in Dubai.

22 Q How long did you live in Dubai?

23 A For four or five years.

24 Q And where did you live after spending four or five years
25 in Dubai?

N. Asghar - Direct / Gandy

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1 A In Pakistan.

2 Q Do you remember what year it was that you moved back to
3 Pakistan?

4 A I'm not sure. I was little. It was like 2001 or 2.

5 Q And you were about four or five years old at the time?

6 A Yes.

7 Q Are you a citizen of Pakistan?

8 A Yes.

9 Q Where in Pakistan did you live?

10 A I lived in a village named Chiryawala.

11 Q And when you moved back to Chiryawala, how long did you
12 live there?

13 A I stayed there until 2013.

14 Q What happened in 2013?

15 A We came to United States.

16 Q Why did you come to the United States?

17 A I came with my mom. She has to testify. I was under 18,
18 so I came with her.

19 Q Who else came with you and your mom?

20 A My mom and my sister and my brother.

21 Q What's your sister's name that came to the United States
22 with you?

23 A Seemab Asghar.

24 Q Are you attending school in the United States since you
25 moved here?

N. Asghar - Direct / Gandy

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1 A Yeah.

2 Q What grade are you in?

3 A Ten.

4 Q Before moving to the United States when you were in
5 Chiryawala, were you attending school there?

6 A Yeah.

7 Q What school were you attending?

8 A Kashmir Model High School.

9 Q Where is the Kashmir Model High School located?

10 A It's in Chiryawala.

11 Q Is that in the village where you lived?

12 A Yeah.

13 Q Who attended the Kashmir Model High School, boys and
14 girls or just one or the other?

15 A Boys and girls. They had separate campus.

16 Q So there was a boys' campus and then apart from that a
17 girls' campus?

18 A Yeah.

19 Q When you were in class at the Kashmir Model School, were
20 your classes just girls then?

21 A Yeah.

22 Q How far was the Kashmir Model School from your house in
23 Chiryawala?

24 A It took 25 or 30 minutes by walk.

25 Q And how would you typically get to school?

N. Asghar - Direct / Gandy

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1 A By walk.

2 Q I'd like to draw your attention now to January of 2013.

3 During that month, did you travel to Barnala?

4 A Yes.

5 Q Why did you go to Barnala?

6 A I attend the funeral of my cousin.

7 Q What is Barnala?

8 A It's a city in Pakistan.

9 Q Who attended the funeral of your cousin with you?

10 A My mom, father and two sisters.

11 Q Which sisters?

12 A Madeeha and Seemab.

13 Q Where was your sister Abida at the time?

14 A She was in Spain.

15 Q And did you know where your brother Shujat was at the
16 time?

17 A She was in South Africa.

18 Q How long did you and your mom and your dad and Seemab and
19 Madeeha expect to stay in Barnala when you went for the
20 funeral?

21 A Five days.

22 Q Where were you going to stay?

23 A In my uncle's house.

24 Q Is that the uncle who lost his son?

25 A Yeah.

N. Asghar - Direct / Gandy

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1 Q At the time that you traveled to Barnala to attend this
2 funeral for your cousin, were you attending school? Was that
3 part of your school year?

4 A Yeah.

5 Q What part of the school year were you in at that time?

6 A It was in almost end of school year.

7 Q Almost the end of the school year?

8 A Yeah.

9 Q Did you have final exams coming up?

10 A Yeah.

11 Q When were your final exams scheduled to take place?

12 A In March.

13 Q Does your school schedule change a bit in that period of
14 the school year?

15 A Yeah.

16 Q I'd like to draw your attention to the date after the
17 funeral, so the second day after the funeral.

18 Did your parents --

19 THE COURT: Excuse me. What is that noise?

20 AUDIENCE MEMBER: Sorry, Your Honor, it's my phone.

21 THE COURT: Turn it off.

22 BY MS. GANDY:

23 Q Drawing your attention to the day after the funeral for
24 your cousin.

25 Did your parents leave Barnala unexpectedly that

N. Asghar - Direct / Gandy

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1 day?

2 A Yeah.

3 Q How did you learn that your parents were leaving Barnala?

4 A My sister, she told me that my mom and father they went
5 to Chiryawala.

6 Q Which sister told you that?

7 A Madeeha.

8 Q How long did you expect your parents to be gone?

9 A They were come back next day.

10 Q So you thought they were just returning to Chiryawala for
11 that night --

12 A Yeah.

13 Q -- and that the next day --

14 THE COURT: You have to wait until the question.

15 So would you read the question back, please, and
16 then we'll have an answer.

17 (The requested portion of the record was read back
18 by the Official Court Reporter.)

19 Q And you thought they were going to come back to Barnala
20 the next day?

21 A Yeah.

22 Q What happened after your parents left Barnala to go back
23 to Chiryawala that day?

24 A I was not in room. I heard, when I saw my sisters, they
25 were crying, they received a call. I told them what's

N. Asghar - Direct / Gandy

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1 happened, they said --

2 MR. SOSINSKY: Objection.

3 THE COURT: Overruled.

4 Why don't you read the question and start your
5 answer again, please.

6 The objection is overruled.

7 (The requested portion of the record was read back
8 by the Official Court Reporter.)

9 THE COURT: Overruled.

10 Continue your answer, please.

11 A They said Akmal and his people shot attack on my mom and
12 father's car.

13 Q Now, Miss Asghar, you said that you weren't in the room
14 at the time; is that right?

15 A Yeah.

16 Q Who is it that you saw crying?

17 A My sisters. They started shouting when they heard that.

18 Q Which sisters are you talking about?

19 A Both of them.

20 Q So both Seemab and Madeeha?

21 A Yeah.

22 Q Where were you when you learned -- when you saw your
23 sisters crying and shouting?

24 A I was in my uncle's house, but I was not in that room.

25 Q What did you do when you heard your sisters shouting and

N. Asghar - Direct / Gandy

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1 crying?

2 A I started crying.

3 Q What happened after your sisters told you about what
4 they'd learned from the phone call?

5 A My mom said they will call us later.

6 Q Who did you understand her to mean when she said they
7 would call us later?

8 A My father.

9 Q Did your parents come back to Barnala that night?

10 A No.

11 Q How long did you stay in Barnala after learning about
12 this attack on your parents?

13 A Two weeks.

14 Q Fair to say that's longer than you expected to stay
15 originally?

16 A Yeah.

17 Q Where in Barnala did you stay during that two-week
18 period?

19 A Stayed at my uncle house.

20 Q Who stayed with you?

21 A Seemab.

22 Q What did your sister Madeeha do?

23 A She went to my aunt house in Kotla.

24 Q Why did she go?

25 A Because she was attending school and she has to go to the

N. Asghar - Direct / Gandy

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1 school and her school was close to my aunt house.

2 Q So it was more convenient for her to stay at the Kotla
3 house than in Barnala?

4 A Yeah.

5 Q Now, you said you and Seemab stayed at your uncle's house
6 in Barnala for about two weeks; is that right?

7 A Yeah.

8 Q Why did you not go back to Chiryawala after the funeral
9 events ended?

10 A Because they attacked --

11 MR. SOSINSKY: Objection.

12 THE COURT: Overruled.

13 You can answer.

14 A Because they attacked our father and all my what my
15 father said it's unsafe for you to come back to Chiryawala,
16 you can stay in Barnala.

17 Q During the two weeks you stayed in Barnala, were you able
18 to attend your classes in school?

19 A No.

20 Q During the two weeks that Seemab stayed in Barnala with
21 you, was she able to attend her classes?

22 A No.

23 Q So how many days of school did you miss while you were
24 staying at your uncle's in Barnala?

25 A I don't remember. I think two weeks.

N. Asghar - Direct / Gandy

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1 Q After the two weeks or so that you and Seemab stayed in
2 Barnala, where did you go?

3 A We went back to Chiryawala.

4 Q Why did you move back after that two-week period?

5 A Because we can't stay there for our whole life. We have
6 to come back our house and we think we can come back to our
7 home.

8 Q When you moved back to Chiryawala after those two weeks,
9 was your sister Madeeha, did she come home at the same time?

10 A No, she came after us.

11 Q So she stayed in Kotla longer than you stayed in Barnala?

12 A Yeah.

13 Q When did she come home?

14 A She came before I think two or three days of 25 February.

15 Q So two or three days before the 25th of February is when
16 she returned?

17 A Yeah.

18 Q When you moved back to Chiryawala after that two-week
19 stay in Barnala, did you go back to school right away?

20 A I missed my school one week when I came back from
21 Barnala.

22 Q So you missed two weeks while you were in Barnala and
23 then when you came back to Chiryawala you stayed out of school
24 another week?

25 A Yeah.

N. Asghar - Direct / Gandy

1116

1 Q Why did you stay out of school another week after you had
2 returned to Chiryawala?

3 A I was scared.

4 Q What were you scared of?

5 A Maybe they will try again to kill us.

6 Q During that first week when you were back in
7 Chiryawala -- well, I should ask first did Seemab go back to
8 school right away when you got back to Chiryawala?

9 A No.

10 Q How long did she stay out?

11 A I don't remember.

12 Q During the period of that week when you're back in
13 Chiryawala after the funeral and before you've gone back to
14 school, were you living life like normal?

15 A No.

16 Q What was your life like during that week?

17 A My father, he was always upset and all the neighbors,
18 they stop coming to our home, and we was sleeping in the same
19 room.

20 Q What do you mean when you say you were sleeping in the
21 room?

22 A Before we were sleeping in our separate rooms. If we
23 want to study we can. When that time we was sleeping in all
24 room where we stay all the wheat boxes, they cover the windows
25 and father said it safe for us to stay.

N. Asghar - Direct / Gandy

1117

1 Q So before your trip to Barnala, you had your own bedroom
2 in your house in Chiryawala?

3 A Yeah.

4 Q And that's where you would sleep?

5 A Mm-hm.

6 Q So just to make sure I'm understanding you correctly,
7 when you came back to Chiryawala, you were sleeping in a room
8 where you had wheat that covered the windows; is that right?

9 A Wheat boxes.

10 Q Wheat boxes?

11 A Yeah.

12 Q Is that like a box that stored wheat?

13 A Big boxes, yeah.

14 Q And why did you want to stay in a room where the wheat
15 boxes covered the windows?

16 A So we think maybe they will try to kill us, so we will be
17 safe here.

18 Q Could you see in through the windows, or did the wheat
19 boxes block the windows?

20 A The wheat boxes were covering the windows.

21 Q Who was staying in the room where the wheat boxes covered
22 the windows?

23 A Me, Seemab and sometimes my father and mom.

24 Q Were there beds in that room? Is that a bedroom
25 usually?

N. Asghar - Direct / Gandy

1118

1 A We had traditional beds, bedroom.

2 Q Besides your immediate family members, your mom, your
3 dad, Seemab and Madeeha when she got back, was anybody else
4 staying in your house with you during that period of time?

5 A Yeah.

6 Q Who?

7 A Zameer.

8 Q Who is Zameer?

9 A He's my cousin's son.

10 Q How old is Zameer?

11 A I think he's 19 or 20. I'm not sure.

12 Q Why was Zameer staying with you in your house in
13 Chiryawala during that time?

14 A Because everybody that know us know about our first
15 shooting. When he heard that, he called to my father he going
16 to stay with him because my father was alone. He said he will
17 help him to ride a bike.

18 Q So when you say your father was alone, what do you mean?

19 A That nobody was talking with us and they were calling my
20 father and disturbing him.

21 Q During this period of time when you're back in
22 Chiryawala, did your brother Shujat come home at all?

23 A No.

24 Q So your father was the only man in the house?

25 A Yeah.

N. Asghar - Direct / Gandy

1119

1 Q And when Zameer was going to help your father -- well,
2 let me ask it a different way.

3 What kind of things did Zameer do to help your
4 family during that time?

5 A He said he can go to the market if we want to buy
6 something.

7 Q Was he at your house when you came back from Barnala, or
8 did he come after you return?

9 A He came after us.

10 Q And where in the house was Zameer staying during this
11 period of time?

12 A He was staying in our hall.

13 Q In your hall?

14 A Yeah.

15 Q Is that a different part of the house than where you and
16 your sister were sleeping?

17 A Yeah.

18 Q After you came back to Chiryawala, did you eventually go
19 back to school at some point?

20 A Yeah.

21 Q And you said that was after about a week; is that right?

22 A Yes.

23 Q What happened that made you decide to go back to school
24 all of a sudden?

25 A My teacher, they were calling to my father because I was

N. Asghar - Direct / Gandy

1120

1 missing lot of stuff and my exams were close, so my father
2 said you have to go to school.

3 Q And so at that point when you went back to school, is it
4 fair to say you had missed about three weeks total, two weeks
5 in Barnala and one week in Chiryawala?

6 A Almost.

7 Q Almost three weeks?

8 A Yeah.

9 Q I'd now like to draw your attention to February 25th of
10 2013.

11 Is that a day that you remember?

12 A Yeah.

13 Q What do you remember about that day?

14 A That day my father and sister, they were murdered.

15 Q Which sister?

16 A Madeeha.

17 Q How did that day start for you?

18 A That day I woke up in the morning and we made our
19 breakfast, and then my mom, she walk me for school.

20 Q How many days had you been back at school at that point?

21 A Four or five days.

22 Q You had been going back to school for about four or five
23 days?

24 A Yes.

25 Q And you said that your mom helped you walk to school; is

N. Asghar - Direct / Gandy

1121

1 that right?

2 A (No verbal response.)

3 Q What happened on your walk to school with your mom?

4 A She walk me halfway for school and then I found my
5 friends.

6 Q And did your friends walk you the rest of the way?

7 A Yeah.

8 Q Do you remember what time your school day started at that
9 period?

10 A It was like 8:15.

11 Q In the morning?

12 A Yeah.

13 Q And how long did your day classes last?

14 A Our normal classes end at two o'clock and then we had
15 evening classes.

16 Q So your regular day classes went from about 8:15 'til
17 about two o'clock; is that right?

18 A Yeah.

19 Q And then you said that you had evening classes during
20 this period of time.

21 What are evening classes?

22 A Evening class is because our exams are close and if you
23 don't understand anything, the teachers have those.

24 Q So it's like an extra study session?

25 A Yes.

N. Asghar - Direct / Gandy

1122

1 Q When did your evening classes, that study session begin?

2 A It began in I think 2:30.

3 Q So what did you do between two o'clock when your day
4 classes end and 2:30 when your evening classes started?

5 A We moved from girls' campus to boys' campus and then we
6 had to wait for 15 minutes.

7 Q So your evening classes took place on the boys' campus?

8 A Yeah.

9 Q Were the evening classes, they began at 2:30. What time
10 did they typically end?

11 A They typically at five or six o'clock.

12 Q And were they voluntary, or were all the students
13 expected to attend the evening classes?

14 A All of them.

15 Q So you were required to attend them?

16 A Yes.

17 Q Miss Asghar, do you know someone named Mohammad Akmal
18 Choudhry?

19 A Yeah.

20 Q Who is Mohammad Akmal Choudhry?

21 A He's a man who lives in our village.

22 Q And when you say your village, what do you mean?

23 A In Chiryawala.

24 Q Did any of Akmal's children attend school with you at the
25 Kashmir Model School?

N. Asghar - Direct / Gandy

1123

1 A Yeah.

2 Q How many children?

3 A Three.

4 Q Who were they?

5 A Two are boys and one is girl.

6 Q What was the name of the girl daughter of Akmal who
7 attended school with you?

8 A Rabbia.

9 Q And is that spelled -- do you know how that's spelled?

10 A No.

11 Q How old was Rabbia, or I should say what grade was Rabbia
12 in?

13 A I'm not sure. I think she was in seven or eight grade.

14 Q So she was a little bit younger than you, is that fair to
15 say?

16 A Yes.

17 Q In the grade that Rabbia was in, was she following the
18 same school schedule that you followed of day classes 'til two
19 o'clock and then evening classes from 2:30 to 5:00 or 6:00?

20 A Yeah.

21 Q And she was expected to attend for that full day?

22 A Yes.

23 Q Was Rabbia a friend of yours?

24 A No.

25 Q Ms. Asghar, do you know someone named Nisar Ahmed?

N. Asghar - Direct / Gandy

1124

1 A Yes.

2 Q Who is he?

3 A He's the man who was from Chiryawala.

4 Q Did any of Nisar Ahmed's children attend school with you
5 at the Kashmir Model School?

6 A Two.

7 Q Who were the children that attended school with you?

8 A One daughter and one boy.

9 Q And the daughter that attended school with you, what was
10 her name?

11 A Midah.

12 Q Do you know how to spell Midah?

13 A I'm not sure how to spell.

14 Q What grade was Midah in?

15 A She was in my grade.

16 Q Does that mean that she was in classes with you?

17 A Yeah.

18 Q Was Midah, as a tenth grader in your class, was she
19 required to attend the same school day that you were required
20 to attend from about 8:15 in the morning 'til 5:00 or 6:00 in
21 the evening?

22 A Yeah.

23 Q Were you and Midah friends?

24 A Yeah.

25 Q Tell us about your friendship with Midah.

N. Asghar - Direct / Gandy

1125

1 A I was not her close friend. I just whatever he -- she or
2 me were out, we were helping each other, we talk.

3 Q At some point during the time that you attended school
4 with Midah, did your relationship with her change?

5 A Yeah.

6 Q Can you explain that to us?

7 A Before going to Barnala, she just she was saying just hi.
8 Before she was talking with me, but then she stopped talking
9 with me.

10 Q Was there anything significant that happened around the
11 time that she stopped talking with you and just started saying
12 hi and nothing more?

13 A Yeah.

14 Q What happened that changed that?

15 A Because Amina, she left the home and living with my
16 brother.

17 Q Was it after Amina left the home that you noticed the
18 change?

19 A Yeah.

20 Q Miss Asghar, I'd like to draw your attention back to
21 February 25th, the day we were talking about, okay?

22 A Yeah.

23 Q On that day, did you stay at school all the way through
24 evening classes ending at 5:00 or 6:00 p.m.?

25 A No.

N. Asghar - Direct / Gandy

1126

1 Q What happened that caused you to leave your class early?

2 A I came to my class, the break was almost finish. And my
3 friend, she told me it was father and sister, they are
4 murdered. When I heard that, I started crying and I was
5 screaming in shock. And then after when our teacher, he came
6 to our class, he told us that she was lying, everything was
7 fine. And then after couple of minutes, I saw one relative of
8 Akmal, he was picking his children up from the school.

9 Q Miss Asghar, you said that this girl told you that your
10 father and sister had been murdered after the break.

11 What break are you talking about?

12 A We had a 15 minutes break before evening classes start.

13 Q And when this girl told you this message, where were you?

14 A I was coming to my class and when I entered in that class
15 and she tell me.

16 Q Was that the classroom for your evening classes?

17 A Yeah.

18 Q So do you remember about what time it was that she told
19 you this?

20 A I think it was 2:35, around about.

21 Q Is that around the time that your evening classes were
22 scheduled to begin?

23 A Yes.

24 Q Now, you mentioned that when she told you this, you
25 obviously got upset, right?

N. Asghar - Direct / Gandy

1127

1 A Yeah.

2 Q And you mentioned that you saw a relative of Akmal come
3 to the school; is that right?

4 A Yes.

5 Q What relative of Akmal did you see?

6 A Zafir.

7 Q Who is Zafir?

8 A He's Akmal's sister's son-in-law -- sorry, Nisar's
9 sister's son-in-law.

10 Q You said you saw him pick up their children.

11 Whose children did you see Zafir pick up from
12 school?

13 A Nisar and Akmal's children.

14 Q Was it the children you just named for us?

15 A Yes.

16 Q Did you see specifically Rabbia, Akmal's daughter who you
17 said was a few grades younger than you, did you see her that
18 day?

19 A Yeah.

20 Q What did she do?

21 A I saw her when she was leaving the school.

22 Q Was that with Zafir?

23 A Yeah.

24 Q Did you see Midah at that time?

25 A Yes.

N. Asghar - Direct / Gandy

1128

1 Q Where was she?

2 A She was also leaving.

3 Q Did it surprise you that Midah and Rabbia and the other
4 children were leaving school at that time?

5 A Yeah.

6 Q Why?

7 A Because the last month they attacked our mother and
8 father.

9 MR. SOSINSKY: Objection, judge.

10 THE COURT: Overruled.

11 A The last month they attacked our father and mother, and
12 all my friends, she was saying your father and sister, they
13 are murdered and their children was leaving the school,
14 everything was clear to me.

15 Q Ms. Asghar, after you saw Rabbia and Midah and the other
16 children leave the school with Zafir, what happened next?

17 A After five or ten minutes, my teacher, he call me to the
18 principal office and I went there. There was one policeman
19 there, and then he told me, "Your mom sent me, you have to go
20 home," and then I left the school with him.

21 Q Had you ever seen that police officer before?

22 A No.

23 Q You said that the principal told you you had to go home;
24 is that right?

25 A No, my teacher, not principal.

N. Asghar - Direct / Gandy

1129

1 Q I'm sorry, your teacher told you that?

2 A Yeah.

3 Q And what happened when you met up with the police officer
4 in the principal's office?

5 A I left with him on his bike and I was asking, "Is my
6 father fine?" And he said, "He is fine. You have to come
7 with me."

8 Q Did you believe him?

9 A No.

10 Q Why not?

11 A Because the children were leaving school and my friend,
12 she was saying me about the murder thing. It was my first
13 time the police came me -- to pick me from the school.

14 Q So you had never had a police officer take you from
15 school before?

16 A Yeah, it was my first time.

17 Q Where did the police officer tell you you were going?

18 A Home.

19 Q Did he take you home?

20 A No.

21 Q Where did he take you?

22 A Before coming to home, he took me to the street where the
23 dead bodies of my sister's and father.

24 Q What did you notice when you first came to the area?

25 A They were a lot of people on the roofs.

N. Asghar - Direct / Gandy

1130

1 Q Was that surprising to you?

2 A Yeah.

3 Q What does it mean in your village if there are people on
4 the roof?

5 A Because we have lot of peoples on the roofs only during
6 wedding or somebody's funeral.

7 Q When you got to the area where you saw your father and
8 your sister, where were their bodies?

9 A Their bodies were on the street.

10 Q Were they on the ground or were they on something?

11 A They were on the traditional mats.

12 Q Did you see any other family members during that time?

13 A Who's family member?

14 Q Any of your family members.

15 A Yeah.

16 Q Who did you see?

17 A My mom and my sister.

18 Q Where was your mom?

19 A She was standing and my sister, she was sitting in
20 between the both traditional beds.

21 Q What condition were your mom and sister in when you saw
22 them?

23 A They were crying and ...

24 Q And what did you do when you saw them?

25 A I just scream when I saw the dead body of my father.

N. Asghar - Cross / Sosinsky

1131

1 MS. GANDY: I have nothing further, Your Honor.

2 THE COURT: Your witness.

3 CROSS-EXAMINATION

4 BY MR. SOSINSKY:

5 Q Good morning.

6 A Good morning.

7 Q You told the jury that it was, you recall, about 2:35
8 that a friend in a classroom said something about your father
9 being murdered or shot?

10 A Yeah.

11 Q And do the students at Kashmir Model School, do they have
12 cellphones with them in school?

13 A No.

14 Q And when you say no, I take it that means you didn't have
15 one either, right?

16 A Yeah.

17 Q And the person who you tell us told you at 2:35 or so
18 this news, she was another student in the class, right?

19 A Yeah.

20 Q And so if that student didn't have a cellphone, do you
21 know how at all that person would have come to have that
22 information, or did you not ask?

23 A That girl was the sister of our teacher, and my teacher,
24 he had the phone.

25 Q So the teachers and the principal have a phone?

N. Asghar - Cross / Sosinsky

1132

1 A Yeah.

2 Q And would it be fair to say that it was within five to
3 ten minutes after 2:35 p.m. that a police officer came to the
4 school and took you from there, right?

5 A Yeah. I don't remember all that time. I was crying that
6 time.

7 Q I understand, but it was a short time, is what I'm asking
8 you, after you learned this, right?

9 A Yes.

10 Q And you rode back on a police motorcycle back to where
11 the police officer took you, right?

12 A Yes.

13 Q And later that night, you went to the hospital, right?

14 A Yes.

15 Q And at the hospital that night, you mentioned someone
16 earlier, Zameer, who had been staying with your family, you
17 saw at the hospital Zameer's family, right?

18 A Yes.

19 Q His mother and father came to the same hospital as you
20 were, right?

21 A Yeah.

22 Q And other relatives of Zameer also met you at that
23 hospital, correct?

24 A Yes.

25 MS. GANDY: Objection, Your Honor; beyond the scope

N. Asghar - Cross / Sosinsky

1133

1 of direct examination.

2 THE COURT: Overruled.

3 Q Now, Zameer, you say, is a relative of your family,
4 right?

5 A Yeah.

6 Q He was -- his mother was your father's niece, correct?

7 A Yeah.

8 Q And Zameer came to live or stay with your family about
9 ten or so days before February 25th, 2013, right?

10 A I don't remember what the days.

11 Q You remember he was there for some period of time
12 however, right?

13 A Yeah.

14 Q And he came there because your father and his father
15 discussed the fact that the family could use some help around
16 the house at that time, right?

17 A I don't know.

18 Q Were you aware that his father and your father had some
19 discussion about Zameer coming to live with you?

20 A No.

21 Q And you told us that Zameer drove you to school, right,
22 on a motorcycle?

23 A Who me?

24 Q I'm sorry, your sister Madeeha.

25 A Yeah.

N. Asghar - Cross / Sosinsky

1134

1 Q And did Zameer Abbas also drive other members of your
2 family around both in the motorcycle and in the family's other
3 vehicle, a Jeep?

4 A I don't know. I never drove with him.

5 Q I'm sorry?

6 A I never get on bike with him.

7 Q Did you see him driving your father around during the
8 time he was staying with you on the motorcycle?

9 A Yeah, when -- when my father, he was going to pick my
10 sister some days because he came before three days of 25
11 February.

12 Q Did you see Zameer Abbas take your father on -- in the
13 Jeep to attempt to have the Jeep fixed some time before
14 February 25th, 2013?

15 A No.

16 Q Did Zameer Abbas take members of your family to the store
17 or grocery to buy things for the house?

18 A For family members?

19 Q For your family members, yes.

20 A No.

21 Q Did Zameer Abbas go to the market for your family at the
22 time he stayed with you?

23 A Yeah, sometimes.

24 Q When you saw Zameer's mother and father at the hospital
25 that night, you saw that his father, Zameer's mother, was

N. Asghar - Cross / Sosinsky

1135

1 crying, right?

2 A Can you repeat?

3 Q Yes.

4 When you saw Zameer's mother, you said, at the
5 hospital later that night, she was crying, right?

6 A Yes.

7 Q And when Zameer stayed with you during this period of
8 time at your house, is it true that you had family-type
9 conversations with him, right?

10 A No.

11 Q I'm sorry?

12 A I don't know because I was always studying because my
13 exams were close. And he was sitting with my father and
14 sister, I don't know what they were talking of.

15 Q Did you and Zameer Abbas have family-type conversations
16 when he was staying with you at the house?

17 A With me?

18 MS. GANDY: Objection, Your Honor; asked and
19 answered.

20 THE COURT: Overruled.

21 Q Did you?

22 THE COURT: She said maybe. Ask your next question.

23 MR. SOSINSKY: I'm sorry, judge. I didn't hear.

24 THE COURT: I know. Ask your next question.

25

N. Asghar - Cross / Sosinsky

1136

1 BY MR. SOSINSKY:

2 Q Would it be fair to say that your family in the village
3 of Chiryawala was a wealthy one?

4 A Whose family?

5 Q I'm sorry?

6 A Whose family?

7 Q Your family.

8 A Because I don't know what the other families. We had
9 everything whatever we want.

10 Q Would you describe your family as wealthy?

11 A Who? My family?

12 Q Would you describe your family as wealthy?

13 A Like we had our cars, our house, and we had everything,
14 whatever we need our father give us.

15 Q Did you describe your family as relatively wealthy when
16 you were speaking with the Government on May 27th, 2014?

17 A Can you repeat?

18 Q Yes. Did you describe your family as relatively wealthy
19 when you spoke with the Government on May 27th of this year,
20 about a month or so ago?

21 A I don't remember.

22 Q Did you see Zameer Abbas after the night of February
23 25th, 2013?

24 A No.

25 Q Did you speak to him?

N. Asghar - Cross / Sosinsky

1137

1 A No.

2 Q Do you know where he was on the night of February 25th,
3 2013?

4 A Yeah, her mother told me that he's in hospital.

5 Q Was he in the same hospital that you visited that night
6 or a different hospital, if you know?

7 A I don't know.

8 Q You understood that he was shot as well on that same day,
9 February 25th, 2013, right?

10 A I just heard from -- from her whether she was saying he's
11 in hospital.

12 Q You don't know whether or not he had been shot too?

13 A No, I know that.

14 Q I'm sorry?

15 A She was also saying that he's also shot down.

16 Q And you say that you would walk to your school located in
17 the adda, in the village, right?

18 A Yeah.

19 Q And you would walk home from there? Would you walk home
20 from the school at the end of the day?

21 THE INTERPRETER: (Interprets question.)

22 A Yes.

23 Q And would it be fair to say that it takes you between 20
24 and 25 minutes to walk from your school back to your home?

25 A It's my estimated time.

N. Asghar - Cross / Sosinsky

1138

1 Q I'm sorry?

2 A It's my estimated time.

3 MR. SOSINSKY: No further questions, judge. Thank
4 you.

5 THE COURT: Any redirect?

6 MS. GANDY: No, Your Honor.

7 THE COURT: Thank you, ma'am. You may step down.
8 Thank you, very much.

9 (Witness leaves the witness stands.)

10 THE COURT: Call your next witness, please.

11 MS. HECTOR: Your Honor, at this time, the
12 Government rests.

13 THE COURT: All right. Ladies and gentlemen of the
14 jury, why don't we take our morning break. Again, do not talk
15 about the case. We'll take about a 15-minute break and then
16 we'll resume. Thank you.

17

18 (Jury exits the courtroom.)

19

20

21

22

23

24

25

Proceedings

1139

1 THE COURT: The jury has left the courtroom.

2 The Government has rested.

3 Are there any motions?

4 MR. SOSINSKY: Yes, judge, I would make a motion
5 under Rule 29 for the Court to dismiss each of the three
6 charges before you for lack of sufficiency of the evidence.

7 THE COURT: Rule 29 of what?

8 MR. SOSINSKY: I'm sorry?

9 THE COURT: Rule 29 of what?

10 MR. SOSINSKY: Of the Federal Rules of Criminal
11 Procedure. Forgive me.

12 THE COURT: Any response to that motion?

13 MR. TUCKER: Your Honor, the Government opposes that
14 motion with respect to each count. The Government has
15 presented credible evidence that supports each of the charges,
16 including testimony from eyewitnesses, as well as the
17 defendant's own statements captured in consensually-monitored
18 telephone calls, as well as the defendant's post-arrest
19 statement.

20 The Government's evidence is also corroborated and
21 confirmed by documentary and objective evidence, including
22 phone records, TLC records, and travel records.

23 Your Honor, the Government's evidence establishes
24 each of the counts beyond a reasonable doubt and the counts
25 should go to the jury.

Proceedings

1140

1 THE COURT: Does the defendant have a response to
2 the Government's argument?

3 MR. SOSINSKY: Not at this time, sir.

4 THE COURT: The motion is denied.

5 MR. SOSINSKY: Thank you, sir.

6 THE COURT: You're welcome.

7 MR. SOSINSKY: Can we address a housekeeping matter
8 next?

9 THE COURT: Of course.

10 MR. SOSINSKY: Should I be seated?

11 THE COURT: Of course.

12 MR. SOSINSKY: That's what I thought. Thank you.

13 Judge, as we discussed yesterday, the next evidence
14 in the case will consist of the, at Your Honor's direction,
15 suggestion, the reading in of the Rule 15 deposition, the
16 testimony that was taken. We have a stipulation that I would
17 propose handing up to the Court that's been signed by counsel
18 for the parties moving in by stipulation Defendant's
19 Exhibit B, which is that testimony, and this stipulation is
20 marked Defendant's Exhibit C.

21 If I could hand it up to the Court and the Court
22 will have a copy, of course, of the testimony to be read in.

23 THE COURT: I would be honored to entertain it.
24 Please give it to Mr. Jackson.

25 MR. SOSINSKY: Yes, sir.

Proceedings

1141

1 (Pause.)

2 THE COURT: Mr. Jackson, would you retrieve my so
3 ordered mojo. Thank you.

4 Also, Mr. Reilly, would you please be so kind as to
5 return copies, I'll hang on to the original, of Defendant's B
6 to the parties. I've got the original and I'll take two
7 copies and you can return these.

8 So I'm returning to the parties complete copies of
9 the four-page Exhibit D which I am admitting into evidence.
10 This is the Urdu version and we will have the translation
11 within 24 hours of Exhibit D, which will be admitted into
12 evidence as part of the defendant's case, over the objection
13 of the Government.

14 (Defendant's Exhibit B was received in evidence.)

15 THE COURT: And I will approve the stipulation that
16 has been marked as Defendant's Exhibit C.

17 (Pause.)

18 THE COURT: I am marking "so ordered" the
19 stipulation and proposed order that's been marked as
20 Defendant's Exhibit C.

21 Do the parties want that in evidence?

22 MR. SOSINSKY: Please, sir.

23 THE COURT: All right. Any objection to that?

24 MS. HECTOR: The stipulation you're referring to?

25 THE COURT: Yes.

Proceedings

1142

1 MS. HECTOR: No objection, Your Honor.

2 THE COURT: Exhibit C is in evidence without
3 objection.

4 (Defendant's Exhibit C was received in evidence.)

5 THE COURT: I'm signing it and giving it back to Mr.
6 Jackson.

7 COURTROOM DEPUTY: Thank you, judge.

8 THE COURT: Thank you.

9 You have Exhibit D there, Mr. Jackson. That is in
10 evidence. That's the Urdu -- this is in evidence and we're
11 going to have the English translation within the next 24 hours
12 attached to it which will also be marked as part of Exhibit D
13 which is in evidence.

14 (Government's Exhibit D was received in evidence.)

15 (Recess taken.)

16 (In open court.)

17 THE COURT: We're about to bring the jury back in.
18 Do we have any procedural issues before we do that?

19 MS. HECTOR: No, Your Honor.

20 MR. SOSINSKY: No, sir.

21 THE COURT: Okay.

22 (Pause.)

23 THE COURT: How has this been marked, the
24 transcript?

25 MR. SOSINSKY: It's been marked already as

Proceedings

1143

1 Defendant's B.

2 THE COURT: Because the version she has in front of
3 her doesn't have any marking on it.

4 The one I've got is marked B. The one that's before
5 her, just to make sure it's the same, do you want her to work
6 with the one that's been marked?

7 MR. SOSINSKY: Why don't we do that.

8 THE COURT: Okay. I'll give her the clip.

9 MS. HECTOR: Your Honor, may we see the stipulation
10 with respect to the transcript for one second?

11 THE COURT: I thought that was handed back to you.
12 No?

13 COURTROOM DEPUTY: I have it, judge.

14 MS. HECTOR: I believe there may be a small error.
15 (Pause.)

16 THE COURT: Mr. Sosinsky, would you give Mr. Jackson
17 an exhibit tab so we could mark this as another Exhibit B.
18 Just give him a tab.

19 (Pause.)

20 THE COURT: Counsel, are you dealing with something
21 that we need to delay the jury coming in on or not?

22 MS. HECTOR: I believe we can orally present this to
23 Your Honor right now quickly and then bring the jury in for
24 the testimony.

25 THE COURT: Go ahead.

Proceedings

1144

1 MS. HECTOR: It occurred to us that there's a
2 mistake in actually admitting into evidence the transcript
3 that we have marked edits on for the witness to read. That's
4 because that transcript is not evidence. What is evidence
5 will be the transcript that the court reporter takes of the
6 oral testimony.

7 So as such, our stipulation is incorrect, and so we
8 have revised the stipulation to accurately reflect that it is
9 the testimony of Ms. Khanum, the sworn testimony taken
10 pursuant to Federal Rule of Criminal Procedure 15, that should
11 come into evidence.

12 Defense counsel, I believe, would like to mark for
13 identification, just so it's part of the court record but not
14 as evidence, the transcript that the witness is reading. I
15 don't know that that's necessary, but I don't have an
16 objection to marking that.

17 THE COURT: Well, here's the issue. Suppose the
18 reader reads the word "cat" as the word "dog." It's in the
19 transcript as "cat," but the reader reads the word "dog."

20 What is the evidence, "dog" or "cat"?

21 MS. HECTOR: Your Honor, I would suggest that the
22 parties could alert the Court if there are errors like that as
23 the reading comes in.

24 My concern is we have agreed on redactions and
25 changes to that transcript to make it more accurate that are

Proceedings

1145

1 written in by hand. The redactions are just sort of lines
2 through testimony, they're not actual redactions. So that it
3 would be improper if that goes into evidence.

4 THE COURT: You want to withdraw the stipulation and
5 you want to have the evidence be the oral rendition by the
6 reader. Is that your bottom line?

7 MS. HECTOR: Yes, Your Honor. We've revised the
8 stipulation.

9 THE COURT: How does the stipulation now read?

10 MS. HECTOR: The stipulation now reads: "It is
11 hereby stipulated and agreed by the United States of America,
12 by Assistant United States Attorneys Amanda Hector, Richard M.
13 Tucker and Margaret E. Gandy and the defendant, Mohammad Ajmal
14 Choudhry, by his attorney, Frederick L. Sosinsky, that the
15 sworn testimony of Nazia Khanum taken pursuant to Federal Rule
16 of Criminal Procedure 15 on June 10th, 2014 should be
17 considered by the jury as trial testimony.

18 "This stipulation may be admitted as evidence at
19 trial."

20 And that would be it.

21 MR. SOSINSKY: And the only thing that we were
22 working through that's not there, and I think consistent with
23 Your Honor's practice, I would like for the stipulation to
24 refer to is that there is a transcript, that's been marked as
25 Defendant's B. We can now withdraw its offer into evidence

Proceedings

1146

1 itself, but it's been marked and I think we should have it
2 marked because that will ultimately be what governs in the
3 event that, for example, there's a misstatement, a misreading
4 of any word there.

5 Right?

6 THE COURT: Well, here's the issue technically, and
7 I agree with what you've just said. Ordinarily we do not
8 allow, and I have no intention of allowing, this jury or any
9 jury to have a portion of the transcript sent in to the jury
10 room the way we would have a contract that is Exhibit C in
11 evidence go into the jury room. If the jury requested
12 Exhibit C in evidence, they'd get it, but they're not going to
13 get a transcript, and I don't think either side in this case
14 would want them to have the transcript, but even if you wanted
15 them to, I wouldn't do it.

16 If they ask for a readback, they're going to ask for
17 readbacks of what the court reporter is now taking down. They
18 are not going to have readbacks from Exhibit B. They will
19 have readbacks from this transcript.

20 Now, that may occasion some additional delays
21 because of the nature of retrieving transcripts, but that's
22 just life in the big city. I don't want you to say later
23 'well, we've got the transcript and they want something from
24 this testimony, so why don't you just send back pages 12
25 through 15 of Exhibit B.' As tempting as that is, you've now

Proceedings

1147

1 made it crystal clear that that's not what we're going to do;
2 is that right?

3 MR. SOSINSKY: Yes.

4 MS. HECTOR: Yes.

5 THE COURT: So we're all on the same page.

6 Do you have the revised stipulation ready to be so
7 ordered by the Court?

8 MS. HECTOR: I do. Unfortunately because I don't
9 have a computer in front of me, it is hand-changed.

10 THE COURT: That's okay. As long as both sides
11 initial it and the defendant initials it, that works for my
12 friends on the 17th floor.

13 MR. SOSINSKY: So Your Honor, just so that we can
14 know how to address in the unlikely event, given the
15 experience, that there would be an error in reading
16 Defendant's Exhibit B, how would the Court like if we pick up
17 on it while it's being read, how would you like us to address
18 that? At that moment? Do we raise our hand?

19 THE COURT: I think the problem is if you start
20 interrupting the reading, it's going to make a mess of the
21 record.

22 On the other hand, if it's something substantial,
23 you need to address it in real-time.

24 MR. SOSINSKY: Yes.

25 THE COURT: So be guided by that admonition.

Proceedings

1148

1 MS. HECTOR: So hand raises?

2 THE COURT: But all five fingers up and hands facing
3 the Court.

4 MR. SOSINSKY: It's the wrong place to only put up
5 less than five fingers.

6 THE COURT: Well, that's exactly right.

7 And I don't want there to be colloquy in front of
8 the jury about what the alleged error is. Just say, "Your
9 Honor, may we have a brief sidebar." And then we'll have the
10 sidebar about the error.

11 In other words, you raise your hand, but in case I
12 fail to recognize it, hard to believe, instantaneously, you'll
13 say, "Your Honor, may we have a sidebar," and then we'll go
14 over and you'll tell me that perhaps the word read was "dog"
15 and not "cat." Of course the problem is if what everybody
16 agrees was said at the time was "cat" and not "dog," you're
17 stuck with what was said.

18 So could become very metaphysical very quickly.
19 This is why I like to have real witnesses here or live
20 remotes, but hey, you can't always get what you want. I
21 didn't get that pony in the projects.

22 MR. SOSINSKY: Your Honor, with regard to something
23 Your Honor indicated, which is that it's the trial testimony
24 that governs as taken down in the record and not what the
25 person -- what another transcript provides, when Your Honor

Proceedings

1149

1 said it though, it did strike me, given your ruling yesterday,
2 that in the case of grand jury testimony in this case, you did
3 allow in substantively that portion. So while --

4 THE COURT: But that's 801(d) admissions.

5 MR. SOSINSKY: No, I understand. I understand Your
6 Honor ruled.

7 THE COURT: And you understand the basis of the
8 rule. This is something quite different.

9 MR. SOSINSKY: Okay.

10 THE COURT: It's an evidentiary matter. Not that I
11 used to teach evidence, although I did, but that's okay.

12 MR. SOSINSKY: Since I'm the one that has to, since
13 it's coming in on my case, read now the amended stipulation --

14 THE COURT: Well, why don't I read it. Is that
15 okay?

16 MR. SOSINSKY: That would solve the problem I was
17 about to tell you, which is I don't have a copy it.

18 THE COURT: Why don't I read it, and in fact why
19 don't you make copies so that counsel can have it in front of
20 them when I read it, two copies.

21 THE CLERK: Do you want to so order it first, judge?

22 THE COURT: Sure.

23 (Pause.)

24 THE COURT: How are we marking this stipulation?

25 MS. HECTOR: I believe it was Defendant's Exhibit C.

Proceedings

1150

1 THE COURT: Okay. May I have a Defendant's
2 Exhibit C tab, please?

3 THE CLERK: (Hanging.)
4 (Pause.)

5 THE COURT: Ladies and gentlemen, you may be seated
6 while we're making copies of the stipulation.

7 (Pause.)

8 THE COURT: Are we ready to bring in the jury,
9 counsel?

10 MS. HECTOR: Yes, Your Honor.

11 MR. SOSINSKY: Yes.

12 And, judge, you'll introduce this as the first
13 evidence offered by the defendant.

14 THE COURT: I would be honored to do so, sir.

15 MR. SOSINSKY: Thank you.

16 THE COURT: You're very welcome.

17 (Pause.)

18 THE COURT: How many more witnesses do you
19 anticipate having after this witness?

20 MR. SOSINSKY: Three and maybe four.

21 THE COURT: The estimate is it's going to be a
22 two-hour read.

23 MR. SOSINSKY: Okay. Just so many of the pages are
24 already crossed out, I think we may move more quickly.

25 MS. SCHMID: Maybe 15 minutes less.

Proceedings

1151

1 THE COURT: One of the advantages of having the
2 transcript is that you can pick up the pace and be more Diane
3 Keaton than Lord Vader.

4 MR. SOSINSKY: I was going to ask if you could give
5 the same instruction.

6 THE COURT: No, this is where you can actually pick
7 it up.

8 MS. SCHMID: You'll be very happy, I assure you.

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Proceedings

1152

1 (Jury enters the courtroom.)

2 THE COURT: Thank you, ladies and gentlemen. Please
3 be seated.

4 While you were out, we have been dealing with some
5 procedural matters and we're now going to begin the
6 defendant's case.

7 We're going to begin the defendant's case with a
8 stipulation and order which I'm now going to read to you, and
9 then we're going to have testimony by a witness who is not
10 physically the lovely young lady sitting in front of you, but
11 rather the testimony of the transcript that she's going to
12 read to you, and I'll explain how that works and the
13 stipulation and order.

14 As I mentioned briefly in my opening remarks to you,
15 preliminary instructions, and as I again will point out when
16 we have our final instructions in the case, evidence comes in
17 in various ways. Most of the testimony, as you know, is from
18 people sitting in that witness stand and you get to see them.
19 There are, however, other kinds of testimony, and you're about
20 to have that. It's going to be recorded testimony that you
21 will hear in a minute.

22 So let me read you the stipulation and then we're
23 actually going to have that lady, who as you know is one of
24 the court reporters, just reading it through. So it's not
25 about how she looks, it's not about her voice, her

Nazia Khanum testimony read

1153

1 intonations. She may go a little bit faster than usual,
2 that's okay, but you will hear the testimony.

3 All right, here goes.

4 "Stipulation and Order. It is hereby stipulated and
5 agreed by the United States of America, by Assistant United
6 States Attorneys Amanda Hector, Richard M. Tucker and Margaret
7 E. Gandy and the defendant, Mohammad Ajmal Choudhry, by his
8 attorney, Frederick L. Sosinsky, that the sworn testimony of
9 Nazia, N-A-Z-I-A, Khanum, K-H-A-N-U-M, taken pursuant to
10 Federal Rule of Criminal Procedure 15, on June 15th of 2014
11 should be considered by the jury as trial testimony.

12 "This stipulation may be admitted as evidence at
13 trial."

14 Signed by counsel and so ordered by the Court.

15 So what you're going to hear now is testimony and
16 we're going to have it read, as they say in another
17 incarnation. Take it away.

18 AS READ INTO THE RECORD BY MS. SCHMID:

19 NAZIA KHANUM

20 was called as a witness, having been first duly sworn, was
21 examined and testified as follows:

22 DIRECT EXAMINATION BY MR. SOSINSKY:

23 Q Good afternoon, Ms. Khanum. How are you?

24 A Good morning. I'm fine. Thank you.

25 Q Ms. Khanum, where do you live?

Nazia Khanum testimony read

1154

1 A Chiryawala District, Gujrat, nearby Cardium.

2 Q And how long have you lived there?

3 A I was born there.

4 Q And have you lived in that village your entire life?

5 A Yes.

6 Q Are you married, ma'am?

7 A Yes.

8 Q And do you have any children?

9 A Yes, I have one son. He's about seven-and-a-half years
10 old.

11 Q How long have you been married?

12 A About ten years.

13 Q What is the highest level of education that you studied
14 for?

15 A I have a main education, yes.

16 Q And where did you achieve that degree from?

17 A I had done this from university, I did a main education
18 from there.

19 Q Is that a university?

20 A Yes, Islamabad. Sorry, Islamabad University.

21 Q And do you work?

22 A Yes, I'm a teacher and in a department.

23 Q You said you were a teacher?

24 A I'm a government teacher.

25 Q How long have you been a teacher, Ms. Khanum?

Nazia Khanum testimony read

1155

1 A I've been doing this service for about ten years.

2 Q Do you teach at a particular school?

3 A It's a primary school in the village is primary model
4 school.

5 Q And you said in the village.

6 In what village are you referring to?

7 A This is nearby my village, Harkal.

8 Q By the way, what is your native language, Ms. Khanum?

9 A Mostly Punjabi. I also speak Urdu, but most of the time
10 I speak Punjabi.

11 Q Now, what age group or grade children do you teach at the
12 primary model school?

13 A This school is from nursery to fifth grade and the kids
14 are from about three to four years old, and then we have all
15 these children. They are here up to fifth grade.

16 Q And presently at the present time, what grade or age
17 children do you teach at that school?

18 A It always changes. Last year I was teaching fifth grade
19 and now I'm teaching nursery.

20 Q How long have you worked at that particular school?

21 A I was transferred from another school and I joined this
22 in 2012.

23 THE INTERPRETER: I'm sorry, 2011. I'm sorry, it's
24 my mistake.

25

Nazia Khanum testimony read

1156

1 BY MR. SOSINSKY:

2 Q Now, what time do you generally go to work at the school,
3 at the primary model school?

4 A Summertime is -- the wintertime is 8:30 to 2:30 and
5 during the summer it's 7:30 to 1:30. During summer is 7:30 to
6 1:30.

7 Q And during the wintertime -- by the way, does the
8 wintertime include the month of February?

9 A Yes, it is, and it changes two times and it changes in
10 April.

11 Q So during the wintertime, how do you physically get from
12 your home in the village to the primary model school?

13 A I have hired rickshaw and this rickshaw takes me to that
14 place to some distance and from there I need to walk to the
15 place.

16 Q And you mentioned a rickshaw.

17 What is a rickshaw? Can you tell us about that?
18 What is it?

19 A A rickshaw is like -- it is a motorbike and there's a
20 place where six passengers can sit.

21 Q All right. And that's how you get back and forth from
22 your home to the school, the primary model school where you
23 work?

24 A Yes. This are just hired for the whole month and I paid
25 him in the end of the month.

Nazia Khanum testimony read

1157

1 Q And do you take a rickshaw back from the primary model
2 school to your home at the end of the workdays from school?

3 A Yes. Most of the time I take this rickshaw, but if I
4 need to go to an office or I'm sick or -- then I take a
5 regular rickshaw.

6 Q Ms. Khanum, do you know someone named Mohammad Asghar?

7 A Yes.

8 Q Do you know someone named Rukhsana Kousar, Rukhsana
9 Abbas?

10 A Yes, I know Rukhsana.

11 Q And how do you know the family of Mohammad Asghar and
12 Rukhsana?

13 A Ma'am, because they're living in the back side of my
14 house. After leaving the next house, it's in my neighborhood.

15 Q Do you know someone named Mohammad Akmal? Mohammad
16 Akmal?

17 A Yes, I know him.

18 Q Do you know someone named Mohammad Ajmal?

19 A Yes, I also know him.

20 Q Do you know someone named Mohammad Afzal?

21 A Yes, I know him.

22 Q Do you know the daughters of Mohammad Asghar and Rukhsana
23 Kousar?

24 A Yes, ma'am. I live in a village, so I know the people
25 who live in the village.

Nazia Khanum testimony read

1158

1 Q Do you know in particular the daughter of Mohammad Asghar
2 and Rukhsana Kousar, the daughter named Madeeha?

3 A Yes, I knew her. Yes, absolutely.

4 Q Did you know another daughter by the name of Seemab
5 Abbas?

6 A Yes, I know him very well -- her.

7 Q Did you know someone named Zameer Abbas, a young man
8 named Zameer Abbas?

9 A Ma'am, it's like this, that I know that he's one of their
10 relatives. He's from another village, so I don't know him
11 proper.

12 Q When you say you don't know him proper, please explain
13 what you mean.

14 A No, I don't know his background, but that's all I know
15 that he's Rukhsana's relative.

16 Q That's how you know --

17 A From his appearance.

18 Q That's how you know him?

19 A Because I could see from the top of my roof that he was
20 living in their house.

21 Q Now, what I'd like you to do is to focus your attention
22 on the date of February 25th, 2013, which was more than a year
23 ago, okay?

24 A Okay.

25 Q Were you working on that date?

Nazia Khanum testimony read

1159

1 A Yes, I was on duty.

2 Q And where were you working on that date?

3 A In my school in Harkal.

4 Q Did there come a time when you left the school in Harkal
5 that day?

6 A Yes, on that day I was not feeling well. It was about
7 2:15 and because I was not feeling well because of my
8 menstrual problems, so I went home before I was going to
9 finish my day.

10 Q You said you left the school that day because of not
11 feeling well at about 2:15 in the afternoon, ma'am?

12 A Yes.

13 Q And how did you --

14 A I was not feeling well, so I left before finishing the
15 school.

16 Q Otherwise you would have left at about 2:30, yes?

17 A Yes. It was going to finish at 2:30, but because I left
18 because of my -- I was not feeling well.

19 Q How did you get from the school when you left at about
20 2:15 back to the village where you live?

21 A Obviously I couldn't have my regular rickshaw, so I hired
22 another rickshaw and I went home.

23 Q And how long a ride was it or is it from the primary
24 model school where you worked back to the village where you
25 live?

Nazia Khanum testimony read

1160

1 A I was not noticing the time at that time. It took me
2 approximately 15 to 16 minutes since I was not noticing the
3 time.

4 Q The rickshaw that took you from the school back to the
5 village, where did the rickshaw let you off once back in the
6 village?

7 A Ma'am, it's like this, because the place was so little,
8 the rickshaw wouldn't go inside the street. So drop me little
9 distance from my house because of the -- there was some hole
10 there. The rickshaw couldn't -- so it couldn't go inside, so
11 it dropped me there.

12 Q Where does the rickshaw that you typically take from
13 school to your home drop you off? Is that the same place or
14 a different place on that particular day?

15 A No, no, I didn't use that rickshaw. I hired another
16 rickshaw.

17 Q No, no, I understand that. Normally when you go from
18 school back to the village, where does the regular rickshaw
19 drop you off?

20 A It's like this, the regular rickshaw used to stop us near
21 the vans and other. They go to Gujrat. So because this, the
22 rickshaw hired on that day was -- because specially I hired
23 it, it took me there.

24 Q So were you the only one on the rickshaw that day?

25 A Yes, it was only me.

Nazia Khanum testimony read

1161

1 Q Now, why didn't the rickshaw, if you know, drop you off
2 directly in front of your home on that day?

3 A As I told you that we always take our rickshaw because we
4 always get off at that stop because of there's electric pole
5 there. That's why it couldn't go inside.

6 Q Did you get out from the rickshaw on that particular day?
7 Did you get off?

8 A Yes, I got off from rickshaw on that stop.

9 Q And did you begin to walk on that day from where the
10 rickshaw left you off in the direction of your home in the
11 village?

12 A Yes, I did.

13 Q How far a distance is it from the spot where you were
14 dropped off by the rickshaw to where your home is?

15 A It's like this, I never measured the distance, so it's
16 about approximately -- I can say that it's 150 to 200 meters.

17 Q From this spot where you were dropped off to about where
18 your home is, yes?

19 A Yes, yes, yes.

20 Q As you were walking in the direction of your home, did
21 there come a time when you saw a motorbike pass you by?

22 A Yes, when I got off the rickshaw and I picked up my bag
23 and I saw a bike was passing by because I -- and even I know
24 that I gave him room to let it pass.

25 Q To let the motorbike pass, yes?

Nazia Khanum testimony read

1162

1 A Yes.

2 Q And did you?

3 A Yes, I got close to the wall to let it pass.

4 Q And did you see who was aboard the motorbike?

5 A Yes, just Asghar, his daughter and the young guy who was
6 living in their house.

7 Q You saw them on the motorcycle pass you by?

8 A Yes, I did see them.

9 Q Now, did there come a time as you were walking on the
10 road towards your home that you heard what sounded like firing
11 or gunshots?

12 A Yes, I heard it.

13 Q And where were you when you heard what sounded like
14 firing or gunshots?

15 A It's like this, in the village there are long streets.
16 So there -- I was walking through and all of a sudden I heard
17 firing.

18 Q Did you look up in the direction of where you heard the
19 firing?

20 A Yes, I was on the corner of the street where I could see
21 from the other side. I saw that there was firing and the
22 rider from the motorbike, they were --

23 Q Please repeat your answer.

24 A Yes, all of a sudden I heard the firing and I was on the
25 corner of the street where I could see the other end of

Nazia Khanum testimony read

1163

1 street.

2 Q And what did you see at the other end of the street?

3 A I saw two people were firing and the father and the
4 daughter, they were on the floor.

5 Q Now, let me stop you there and ask you about the two
6 people you saw firing.

7 Can you describe what those two people looked like?

8 A Ma'am, I can tell you that those people were like
9 Pakistanis like I am.

10 Q Yes. Can you tell us approximately how old they appeared
11 to you?

12 A I was shocked at the time, but then I could see
13 approximately they were about 30 to 35 years old.

14 Q And you said that you saw them firing or shooting.

15 Did you see what appeared to be a gun or firearms in
16 their hands?

17 A It was something like a gun or something or a rifle,
18 something like that.

19 Q You earlier said you saw two men shooting or firing.

20 Was it in fact two men that you saw shooting?

21 A Yes.

22 Q Did both of those men who you described as being
23 Pakistani and approximately between the ages of 30 and 35
24 years old have what looks like guns or rifles in their hands?

25 A Something like a gun.

Nazia Khanum testimony read

1164

1 Q Can you describe with regard to the gun, did the two men
2 have the guns in one hand or two hands?

3 A No, no, it was in the hands of both of them.

4 Q What I'm asking you is for each of the two men, were they
5 holding the gun with both of their hands? Each one of them
6 had two hands on the gun, is my question?

7 A Yes, both of them were holding the gun.

8 Q Were they holding the gun with one hand or two hands each
9 one of them?

10 A They were holding like this.

11 MR. SOSINSKY: Okay. Indicating two hands.

12 THE WITNESS: Using two hands.

13 BY MR. SOSINSKY:

14 Q Can you describe for us what type of clothing the men
15 were wearing?

16 A Ma'am, it's like this, that I can just guess that they
17 were --

18 Q Please don't guess. All we would like you to do is to
19 describe your best recollection of what the men were wearing.

20 A Are you talking about the clothes?

21 Q Yes, the clothing of the two men who had the guns in
22 their hands.

23 A Something like white, brown, taupe, brown.

24 THE COURT: That's T-A-U-P-E.

25 MS. SCHMID: Yes.

Nazia Khanum testimony read

1165

1 Q And what type of clothing are you describing was white or
2 brown? How would you describe what you saw?

3 A It's like salwar kameez.

4 Q Is that a type of Pakistani attire?

5 A Yes, like we all wear in village, that type.

6 Q Now, you mentioned that you saw the two men firing and
7 you saw Asghar and the daughter, correct?

8 A I saw Asghar, his daughter, and that son, the young boy.

9 Q Yes.

10 A And two men who were firing.

11 Q Regarding Asghar, the daughter and the boy, did you see
12 them on the ground when the shots were being fired?

13 A Yes, because I was standing on the corner and I saw that
14 three of them, they were laying on the ground like a person
15 lays on the ground.

16 Q And when you say the three of them, you're referring to
17 Asghar, the daughter and Zameer Abbas; is that correct?

18 A Yes, yes, yes.

19 Q Now, Ms. Khanum, let me ask you at the time that you saw
20 the shooting, did you see Rukhsana Kousar there at the scene
21 of the shooting?

22 A No.

23 Q Did you see Rukhsana Kousar's daughter Seemab at the
24 scene of the shooting when it was taking place?

25 A Not at all.

Nazia Khanum testimony read

1166

1 Q Did you see a person who I asked you about earlier,
2 Mohammad Akmal, did you see Mohammad Akmal at the scene of the
3 shooting?

4 A No.

5 Q Do you know someone named Nisar Ahmed?

6 A Yes, I know him.

7 Q Did you see this person Nisar Ahmed at the scene of the
8 shooting when it was taking place?

9 A No.

10 Q The two men who were doing the shooting, did you
11 recognize them as anyone you knew from the village?

12 A No, they were unknowns. I had never seen them in my
13 life.

14 Q Just one moment. Now, did there come a time when you saw
15 the two gun men who had been firing the shots move away or
16 leave that area?

17 A Yes.

18 Q And at some point, one of the people who you said you saw
19 earlier on the motorbike and then on the ground, this young
20 man, Zameer Abbas, did you see him leave the area of the
21 shooting and head off in a particular direction?

22 A Yes, I did.

23 Q And can you tell us where did you see this person Zameer
24 Abbas go from the scene?

25 A Towards Asghar's house.

Nazia Khanum testimony read

1167

1 Q And you saw him walking in that direction?

2 A Yes.

3 Q Did there a time after the shooting ended when you saw
4 Rukhsana Kousar appear or approach the scene of the shooting?

5 A Then people started gathering and he went home and after
6 that she came to the scene.

7 Q How long after the shooting stopped would you say it was
8 before you saw Rukhsana Kousar at the scene where the shooting
9 had taken place? How long a period of time?

10 A Ma'am, I didn't have a watch at that time. While it was
11 in my bag, so I didn't notice the time, but it took about two
12 to three minutes her to come there.

13 Q For Rukhsana Kousar to come to the scene?

14 A Yes, she came from home.

15 Q And can you describe when you saw her on that occasion
16 how did she appear, meaning clothing or covering that she was
17 wearing or not wearing?

18 A When I saw her coming from the house to the scene, she
19 was wearing salwar kameez like we wear that dress.

20 Q Did she have any covering on her head or her face area?

21 A When she came from house, she was not wearing anything on
22 her head. When she came to the scene of the -- it was
23 wintertime, so the ladies over there, they gave her dupatta.

24 THE COURT: You can spell that.

25 MS. SCHMID: D-U-P-A-T-T-A.

Nazia Khanum testimony read

1168

1 A Like scarf to cover her head.

2 Q You saw that at the scene itself?

3 A Yes, I did see that all. I just did see all that.

4 Q Did there come a time when you saw this fellow Zameer
5 Abbas once again come through the road where the shooting had
6 taken place?

7 A No. When Rukhsana got to that place and Zameer had left
8 his vehicle.

9 Q Did there come a time when you saw Zameer Abbas driving
10 or passing in a vehicle?

11 A Yes, I saw him driving Rukhsana's small car.

12 Q And where did you see Zameer Abbas driving the car that
13 you just described?

14 A Ma'am, let me make it clear, it was not actually a car.
15 It was like a -- or I don't know what kind of Jeep or
16 something. It was small and it was Asghar's and I saw him
17 going towards the road.

18 Q Who was inside that car?

19 A In that vehicle it was only Zameer Abbas.

20 Q Did there come a point when you saw police officers
21 arrive at the scene?

22 A Yes, after some time they arrived about 20, 25 minutes
23 later.

24 Q Did you see when the police arrived at the scene any
25 interactions between the police and Rukhsana Kousar?

Nazia Khanum testimony read

1169

1 A Yes, I saw police coming there.

2 Q Were you physically present there to see any
3 conversations between Rukhsana Kousar and the police?

4 A Yes, the police came there and they were talking to her
5 and we were standing there, but I couldn't heard the
6 conversation.

7 Q And how long after you had been dropped off by the
8 rickshaw in the village would you say that the shooting that
9 you've described took place? How long was that?

10 A When I got out and I saw a bike passing by me and I was
11 about -- I had arrived at the corner and this happened.

12 THE INTERPRETER: I'm sorry, she said few seconds.

13 MR. SOSINSKY: That's all the questions I have for
14 you, Ms. Khanum. Thank you, very much. You're going to be
15 asked questions now by one of the prosecutors.

16 CROSS-EXAMINATION

17 BY MS. HECTOR:

18 Q Good afternoon, Ms. Khanum. As I said previously --

19 A Good afternoon.

20 Q As I said previously, my name is Amanda Hector, and I
21 also have some questions for you today.

22 THE INTERPRETER: What was the name you said?

23 MS. HECTOR: Amanda Hector.

24

25 BY MS. HECTOR:

Nazia Khanum testimony read

1170

1 Q Ms. Khanum, you said you lived your entire life in the
2 village of Chiryawala; is that right?

3 A Yes.

4 Q And you also said that you know Mohammad Ajmal Choudhry,
5 right?

6 A Yes.

7 Q And is it correct that you -- is it okay with you if I
8 refer to Mohammad Ajmal Choudhry as Ajmal?

9 A Yes.

10 Q And is it correct that you knew Ajmal back when Ajmal
11 lived in Chiryawala himself, right?

12 A Yes, I know him.

13 Q And you knew him back when he lived in Pakistan, right?

14 A Yes.

15 Q Now, at some point, Ajmal moved to the United States?

16 A Yes.

17 Q And Ajmal has two brothers, right?

18 A Yes, yes.

19 Q One is named Afzal and one is named Akmal, correct?

20 A Yes, it's right.

21 Q And after Ajmal moved to the United States, Afzal and
22 Akmal continued to live in Chiryawala, right?

23 A Yes.

24 Q Do you know the name of Afzal's wife?

25 A Yes.

Nazia Khanum testimony read

1171

1 Q Her name is Nusrat Beghum, B-E-G-H-U-M, right?

2 A Yes, Nusrat Beghum.

3 Q And Akmal's wife is named Zora, right?

4 A Yes.

5 Q Do you know the names of Afzal's children?

6 A Yes, I know.

7 Q Can you name them?

8 THE INTERPRETER: I need to --

9 MS. HECTOR: Ask her to repeat.

10 THE INTERPRETER: Repeat.

11 BY MS. HECTOR:

12 Q Could you please repeat that?

13 A Sons' names are Jamil and Khalil.

14 Q Is that Jamil and Khalil?

15 A Jamil, Khalil.

16 Q And can you name the rest of his children, please?

17 A The daughters' names are Tahseen and Tasneem -- Tahseen.

18 Q What about Akmal, can you name Akmal's children?

19 A Yes, Adeal [ph], Shajill [ph].

20 THE INTERPRETER: I'm sorry, I can't pick up names.

21 MS. HECTOR: Could you spell it?

22 BY MS. HECTOR:

23 Q I'm sorry, can you say the names slowly so that the
24 interpreter can hear them?

25 A Yes. Adeal [ph], Shajill [ph], yes.

Nazia Khanum testimony read

1172

1 Q Any other children?

2 A He has three daughters.

3 Q Can you name Ajmal's children?

4 A Son's name is Shakeel, Tahneen is the daughter, Nasreen,
5 Yasmin, Amina.

6 Q Who is the youngest child of Ajmal?

7 A Amina.

8 Q Is it fair to say that you've known Ajmal's family your
9 entire life?

10 A Yes, madam, in the village we know everyone who lives
11 there.

12 Q And you've had occasion to be at Ajmal's family in
13 Chiryawala?

14 THE COURT: "Family home," line 25.

15 Q Family home in Chiryawala, right?

16 A Yes.

17 Q You've attended weddings of Ajmal's family members,
18 right?

19 A Yes, but we don't have close relationship. There's
20 something occasion like it's a speech or any sad occasion we
21 go, but we are not in good relationship.

22 Q But is it correct that you've been to the weddings of
23 Ajmal's family members?

24 A Yes, it's a custom in our country that when there is a
25 wedding that they invite everyone from the village to have

Nazia Khanum testimony read

1173

1 food there.

2 Q And you've also attended funerals of Ajmal's family
3 members, is that fair to say?

4 A Yes, I go.

5 Q And isn't it true, Ms. Khanum, that you're particularly
6 close with Akmal?

7 THE WITNESS: She said no, no.

8 BY MS. HECTOR:

9 Q Afzal is often referred to as "Nazim"; is that right?

10 THE INTERPRETER: Afzal?

11 BY MS. HECTOR:

12 Q Afzal is often referred to as "Nazim"; is that correct?

13 A Yes, he's famous with the name of "Nazim".

14 Q And you said Afzal is famous; is that right?

15 A Because in the local elections he was holding the title
16 Nazim, that's why he's famous for that.

17 Q And Nazim is a political position; is that right?

18 A Yes, when there's a local election and the government
19 assign him this particular position at the union council.

20 Q And Afzal won the election on multiple occasions and
21 became Nazim, correct?

22 A He doesn't hold particular position, but he's elected
23 after the election.

24 Q So Afzal, just to be clear, Afzal has held the political
25 position of Nazim, correct?

Nazia Khanum testimony read

1174

1 A I didn't understand your question. Would you please
2 repeat it.

3 Q Just to be clear, Afzal has held the position of Nazim,
4 correct?

5 A Yes, he became Nazim.

6 Q And then Nazim is in charge of the village of Chiryawala,
7 right?

8 A Yes, you may say that and from all the villages there's a
9 union council and he becomes Nazim of all of that.

10 Q And so he is in charge not only of Chiryawala, but also
11 some of the surrounding villages, right?

12 A Yes. In union council it has some other villages also
13 including in that and he was Nazim of all that.

14 Q And people in the village sometimes go to the Nazim if
15 they have a problem, right?

16 A Yes, even the people when they have problems in the house
17 or any other problem they go to Nazim.

18 Q And when you mean -- when you say if people have problems
19 in the house, you mean if they have family disputes or things
20 like that they might go to the Nazim, right?

21 A Well, he was considered a respectful person in the
22 village, so people who have problem, the personal problems or
23 in the family for example, like daughter-in-law and
24 mother-in-law's problems, they used to go see them or if they
25 need anything else.

Nazia Khanum testimony read

1175

1 Q And because the Nazim holds a political position, the
2 Nazim also has important contacts with people like the police,
3 right?

4 A Yes, but his house was far from mine, so at some distance
5 so I cannot tell you that.

6 Q You've heard the term panchayat, right?

7 A Yes, I've heard about panchayat.

8 Q And is it true that the panchayat is comprised of elders
9 in the village?

10 A Yes, yes.

11 Q And sometimes villagers take problems that they have to
12 the panchayat for help, right?

13 A Yes.

14 Q And Afzal was also a member of the panchayat, right?

15 A Yes.

16 Q And other members of Afzal's family were also part of the
17 panchayat, right?

18 A His maternal uncle, he passed away now.

19 Q Are you referring to Mazhar Iqbal's father?

20 A Yes, yes, yes, I'm talking about him.

21 Q And after Mazhar Iqbal's father died, Mazhar Iqbal became
22 part of the panchayat, right?

23 A Yes, yes.

24 Q And Mazhar Iqbal is a familiar relation to Ajmal, right?

25 A Mazhar Iqbal is Afzal's son-in-law.

Nazia Khanum testimony read

1176

1 Q And Javed Iqbal is also a member of the panchayat, right?

2 A Yes.

3 Q And Javed Iqbal is also a relative of Ajmal's, right?

4 A Yes, he's his cousin.

5 Q And Akmal was also a member of the panchayat, right?

6 A Yes. I never heard about him, but I just know Nazim.

7 Q I'm sorry, the question is is Akmal also a member of the
8 panchayat?

9 A No, he was live in Italy and after that he settled over
10 there in Pakistan.

11 Q Ms. Khanum, in your experience living in the village, is
12 it correct that sometimes the panchayat and the Nazim are more
13 effective at addressing disputes than the police?

14 A Yes, like the people in village, they live like brothers
15 and sisters and they give respect to him.

16 Q And when you say to him, do you mean the Nazim?

17 A Not to all the people who are in the panchayat, the
18 member of it, all members of panchayat.

19 Q Are you saying that people give respect to members of the
20 panchayat?

21 A Yes, in our culture it's like that. If it's an elderly
22 person, we give him respect.

23 BY MS. HECTOR:

24 Q Is it fair to say that Ajmal's family in Pakistan is
25 wealthy?

Nazia Khanum testimony read

1177

1 A No, there are many other people who are rich.

2 Q Are they among the people who are rich?

3 A Excuse me?

4 Q The question is --

5 A What did you say?

6 Q You said there are many people in the community who are
7 rich, right?

8 A Yes, yes.

9 Q Is Ajmal's family among the people that are rich?

10 A No, there are many other families like him in the
11 village.

12 Q So there are many other families who are also wealthy,
13 correct?

14 THE WITNESS: No, I cannot tell you that how rich
15 that person is if I look at the person's house or his car so I
16 can figure it out that he might be rich.

17 BY MS. HECTOR:

18 Q Is it fair to say that Ajmal's family's home in
19 Chiryawala is among the larger homes in the village?

20 A There are many other larger houses than his.

21 Q Is it fair to say that Ajmal's family in Pakistan owns
22 land?

23 A Yes, many other.

24 THE INTERPRETER: I missed the last one, but she
25 said yes, there are many people who own land.

Nazia Khanum testimony read

1178

1 BY MS. HECTOR:

2 Q And is it also true that there are servants who work
3 within Ajmal's family home in Chiryawala?

4 A Ma'am, her house is far from mine, so I cannot tell you
5 anything.

6 Q You previously mentioned that Amina is Ajmal's youngest
7 child, correct?

8 A Yes, yes.

9 Q And is it fair to say that you've known Amina since she
10 was young?

11 A Yes, since her childhood.

12 Q Did you know Amina's mother?

13 A Yes, I know her.

14 Q Is it true that Amina's mother died when she was young,
15 when Amina was young?

16 A Yes, she was very young when her mother passed away.

17 Q And at some point, Amina left Chiryawala and moved to the
18 United States, right?

19 A Yes, I heard that the daughters had gone to America.

20 Q And there are various members of Ajmal's family who have
21 at times lived in America, right?

22 A Yes.

23 Q Ms. Khanum, at some point, did you become aware that
24 Amina had moved back to Pakistan from the United States?

25 A Yes, I heard it.

Nazia Khanum testimony read

1179

1 Q After she returned from the United States, would you see
2 Amina around the village?

3 A Yes, I had seen her standing --

4 MS. SCHMID: Correction.

5 A Yes, I had seen her attending several weddings.

6 Q And at some point Amina got married herself; is that
7 right?

8 A Yes, she did.

9 Q She got married to a boy named Babar, right?

10 A Yes.

11 Q And Babar is the son of Nisar Ahmed, correct?

12 A Yes, yes.

13 Q You previously mentioned that you know who Nisar Ahmed
14 is, right?

15 A Yes, I know him.

16 Q And Nisar's son Babar is a cousin of Amina's, right?

17 THE INTERPRETER: I'm sorry.

18 BY MS. HECTOR:

19 Q Nisar's son Babar is Amina's cousin, right?

20 A Yes, a maternal cousin.

21 Q Is it common in Chiryawala for someone to marry a cousin?

22 A Yes, you can.

23 Q And why is that common, if you know?

24 THE WITNESS: If someone -- to his age and alliances
25 can be fixed.

Nazia Khanum testimony read

1180

1 BY MS. HECTOR:

2 Q What do you mean when you say alliances can be fixed?

3 A Well, I mean within the family and outside of the family
4 it can be fixed.

5 Q What do you mean by that?

6 A No, I said someone can marry anywhere to anyone.

7 THE INTERPRETER: I'm sorry, to anyone.

8 BY MS. HECTOR:

9 Q To anyone.

10 Did you attend Amina's nikah?

11 A No.

12 Q Why didn't you attend Amina's nikah, if you know?

13 A I went to attend her wedding, yes.

14 Q You attended her wedding?

15 A Yes, I attend Babar's like when they have the family.

16 Q But you did not attend Amina's nikah; is that right?

17 A No.

18 Q Were you invited to attend Amina's nikah?

19 A No.

20 Q You said that you knew Asghar and Rukhsana Abbas, right?

21 A Yes, I know them.

22 Q Do you know the names of their children?

23 A Yes, their son's name is Shujat Abbas, yes.

24 Q Do they have other children besides Shujat Abbas?

25 A Yes, their daughter Seemab.

Nazia Khanum testimony read

1181

1 Q Do they have any daughters besides -- I'm sorry.

2 A Nayab and Madeeha.

3 Q Do they have --

4 A They have four daughters and I'm unable to recall another
5 daughter's name and I think she said she's in Spain, she's
6 married.

7 Q Do you know which of their children is the youngest?

8 A Yeah, it's Nayab.

9 Q When Asghar's daughters would go out in public in
10 Chiryawala, would they wear head coverings?

11 A They were born in Dubai and they were here for some
12 years.

13 Q But my question, Ms. Khanum, is whether Asghar's
14 daughters would wear head coverings when they were out in
15 public in Chiryawala?

16 A Yes, whenever they used to college they used to cover
17 with the veil, the burqa, and the youngest one, she used to
18 be -- it's a scarf.

19 Q And so putting aside the youngest daughter Nayab, you
20 said that the other daughters wore --

21 THE COURT: "Also."

22 Q The other daughters also wore a veil?

23 A Yes, when they used to go to college or somewhere else ,
24 they used to wear burqa.

25 Q And does the burqa cover a portion of the face?

Nazia Khanum testimony read

1182

1 A Yes, yes, face is covered fully and you could see only
2 eyes.

3 Q So if you're wearing the burqa, all you can see is a
4 woman's eyes?

5 A Yes, only eyes could be seen.

6 Q Ms. Khanum, in your village of Chiryawala, are marriages
7 between young men and young women typically arranged by the
8 families?

9 A Yes.

10 Q And is it fair to say that it is important in your
11 community to marry someone of the same cast as you?

12 A Yes.

13 Q And is it also fair to say that one of the purposes of
14 marrying someone of the same cast is to maintain the social
15 status of a family?

16 A Yes.

17 Q You mentioned previously that it is common for people to
18 marry one's cousin, right?

19 A Yes, it's common.

20 Q And if a person marries their cousin, land and wealth get
21 kept within the family, correct?

22 A It's nothing like that. There's no problem with the
23 land.

24 Q Is it fair to say that in your village, romantic
25 relationships between young men and young women outside of

Nazia Khanum testimony read

1183

1 marriage is not condoned?

2 A Right.

3 Q And if a young woman has a romantic relationship before
4 marriage, that's shameful, right?

5 A In our village, we respect our mother and father and it
6 doesn't happen like that.

7 Q If a woman were to have a romantic relationship outside
8 of marriage in your community, that's shameful, correct?

9 A I haven't seen this kind of relationship in my life.

10 Q You mentioned before that in your village, everyone knows
11 each other, right?

12 A Yes, that's right.

13 Q Ms. Khanum, let me ask you the question --

14 MS. SCHMID: Correction.

15 Q Ms. Khanum, let me ask the question in a different way.

16 In your experience living in the village your entire
17 life, is it true that gossip spreads quickly?

18 A Yes, like there is any fightings or any like -- so if
19 it's done at night, so in the morning everybody knows about
20 it.

21 Q Are you aware of any instances in your village in which a
22 woman has had a romantic relationship outside of marriage?

23 A I haven't seen, no, this kind of incident in my life.

24 Q I'd like to direct your attention to February 2013. That
25 was the time period in which this incident that you described

Nazia Khanum testimony read

1184

1 with the shooters took place, right?

2 A Yes.

3 Q And you were living in Chiryawala at the time, right?

4 A Yes, on that day I was on my duty in Harkal village.

5 Q Who did you live with in your house at the time?

6 A What time?

7 Q February 2013.

8 A My mother, my sister, and my sister's children.

9 Q I'm going to ask you to describe where your house was
10 located. Was your house close to any landmarks that you can
11 describe?

12 A Nearby the intersection there's called Chonk.

13 THE INTERPRETER: C-H-O-N-K.

14 MS. HECTOR: C-H-O-N-K?

15 THE INTERPRETER: Yeah.

16 THE WITNESS: And you can say that it was close to
17 Asghar's house.

18 BY MS. HECTOR:

19 Q When you say it was close to Asghar's house, can you
20 describe what you mean by that?

21 A If we are on top of the roof and using the back side of
22 the house, after one house I live in the one house and then
23 next to that you can see the back side of his house.

24 Q So between your house and Asghar's house there's one
25 house?

Nazia Khanum testimony read

1185

1 A In the back side of our house there is a street and the
2 street is -- his house is on the other side of the street.

3 Q Are you familiar with someone named Iqbal Patwari?

4 A Yes, his house is in the front of Chonk intersection.

5 Q How close is your house to Iqbal Patwari's house?

6 A Ma'am, his house has two gates. If we enter from the
7 first gate, then it's close to my house and the other gate is
8 on the other side to his house.

9 Q How many houses are there between your house and Iqbal
10 Patwari's house?

11 A From our house there is one house, then there's another
12 one. It's all together three houses in middle.

13 Q There are three houses between your house and Iqbal
14 Patwari's house?

15 A Yes. If we get out from our door and we need to pass
16 three doors to go to his house.

17 Q I see. What color is Iqbal Patwari's house?

18 A It's painted color light, a light.

19 THE INTERPRETER: I know she was mentioning that
20 it's here somewhere.

21 THE WITNESS: And it's like this, we change color of
22 the house every six months.

23 BY MS. HECTOR:

24 Q Do you remember what color Iqbal Patwari's house was in
25 February 2013?

Nazia Khanum testimony read

1186

1 A I cannot tell you the color of his house at that time,
2 but I can tell it's the same color of the gate now, it's
3 brown.

4 Q So taking you back to February 25th, 2013, you said you
5 were supposed to work until 2:30, but instead you left at 2:15
6 in the afternoon, right?

7 A Yes, right.

8 Q So you left 15 minutes before the end of your day because
9 you weren't feeling well, right?

10 A Yes.

11 Q Now, you said you took a rickshaw home that day from
12 school, right?

13 A Yes.

14 Q Where in relation to, if you're leaving your school,
15 where did you go to get the rickshaw?

16 A Would you please repeat it?

17 Q Sure. If you're walking out of your school, where do you
18 have to go, where did you go that day to get the rickshaw?

19 A When you come out of the gate of the school and there's a
20 shop outside and I took a rickshaw from there.

21 Q How long do you think it was between when you left the
22 school and when you first got into the rickshaw?

23 A I didn't notice the time, but it took me about 15 to 16
24 minutes to get home.

25 Q Well, was the rickshaw ride 15 to 16 minutes or was it 15

Nazia Khanum testimony read

1187

1 to 16 minutes between when you left school and when you were
2 dropped off by the rickshaw?

3 A After I sat in the rickshaw and I was dropped at home.

4 Q I just want to understand what you're saying.

5 Were you sitting in the rickshaw for 15 or 16
6 minutes?

7 A Rickshaw had already left because I was not feeling well
8 or I was on my way.

9 Q Let me ask the question again.

10 MS. HECTOR: You can tell her that.

11 BY MS. HECTOR:

12 Q When you left school early because you were feeling ill,
13 you said you walked out of the gate of the school, right?

14 A Yes.

15 Q And then there was a shop where you could get a rickshaw,
16 right?

17 A Rickshaw, yes.

18 Q Did you have to wait for a rickshaw or was a rickshaw
19 already there?

20 A No, it was already there. There used to be like three,
21 four, five, six rickshaws, but as people used to shop and take
22 the rickshaws.

23 Q And approximately how long does it take for you to walk
24 from your school to the stop where the rickshaws are?

25 A Madam, as I told you before that I was not feeling and I

Nazia Khanum testimony read

1188

1 didn't have a watch with me. I didn't notice the time.

2 Q How close is it in distance, approximately, between the
3 school and the shop?

4 A It was less -- like it takes less than one minute or you
5 can arrive there within a minute.

6 Q And you said you took a rickshaw by yourself, no one else
7 was on it?

8 A No, I was the only one.

9 Q Now, you said that you left school at 2:15, right?

10 A Yes.

11 Q How is it that you know that it was precisely 2:15 when
12 you left?

13 A It's like this, there was a head teacher at the school
14 and I told her that I'm not feeling well, rickshaw will come
15 late, so can I leave and she said that you can go because you
16 were supposed to go leave at 2:30, put your attendance and it
17 doesn't make difference. It's hardly 15 to 20 minutes and no
18 visitor or anybody will be there to -- for the checkup.

19 MS. HECTOR: And I'm sorry, no?

20 THE INTERPRETER: Visitor or someone will be there
21 for checkup.

22 BY MS. HECTOR:

23 Q What happened to the children who were in your class when
24 you left early?

25 A In the meantime, I had finished my work.

Nazia Khanum testimony read

1189

1 Q What level of school were you teaching during that time
2 period?

3 A Last year I was teaching fifth grade.

4 Q What time did the fifth graders get out of school?

5 A The same time, 2:30.

6 Q When you left at 2:15, what happened to the children who
7 you were teaching?

8 A There were other teachers, my colleagues, teachers, they
9 were there.

10 Q So you left school 15 minutes before the end of the day,
11 right?

12 A Yes.

13 Q Did all the students at that school get out at 2:30?

14 A Our school is a consolidated school, boys and -- well,
15 it's for both boys and girls. There are --

16 MS. SCHMID: Correction.

17 A There were two parts of the school. Half of the children
18 are in one side and the other one on the other part of the
19 school.

20 Q Do all the children get out of school at 2:30, or do some
21 of them get out at some other time?

22 A Those children in the nursery class, we used to release
23 them during the break time. The other children used to leave
24 at the same time.

25 Q When was the break time?

Nazia Khanum testimony read

1190

1 A Twelve o'clock just for half an hour.

2 Q You said that the students in your school only went up to
3 fifth grade, right?

4 A Yes, from nursery to fifth grade.

5 Q Approximately how old are fifth graders?

6 A About 13, 14 years.

7 Q And how old are nursery school students?

8 A We used to admit them like three-and-a-half years to four
9 years old and three-and-a-half year old children used to be in
10 a play group.

11 Q So for the children that are between three and 13 who are
12 going to your school, do parents come and pick up their kids
13 after school generally?

14 A Mostly the mothers of nursery students, they used to pick
15 them up because they were very small.

16 Q So getting back to the point at which you get in the
17 rickshaw to head home, you said the rickshaw couldn't go all
18 the way to your house because of the roads, right?

19 A No, I got off at the same turn where I used to go and get
20 dropped off during the summer after the shopping.

21 Q And is that because the rickshaw can't travel all the way
22 to your front door?

23 A It's like this, the street where I was going in there was
24 a wooden pole. Because of that rickshaw couldn't go inside,
25 but I had another gate of my house and -- but the road was not

Nazia Khanum testimony read

1191

1 good. There was water on the road there.

2 Q Can you describe where the wooden pole is?

3 A Where I was dropped off it was not wooden pole. It was a
4 cement pole.

5 Q Can you describe where the cement pole is?

6 A Where the rickshaw dropped me off.

7 Q Is the cement pole near any particular landmarks that you
8 can remember?

9 A As I told you, there was a pole and I was dropped off by
10 the rickshaw by the pole and pole is the only landmark I can
11 tell you, but there was a shop nearby.

12 THE COURT: Ladies and gentlemen of the jury, we've
13 come to page 50 of the testimony. We've got a few more pages
14 to go. Why don't we take a ten minute comfort break and then
15 we'll come back.

16 (Jury exits the courtroom.)

17 THE COURT: The jury has left the room.

18 Any procedural issues we need to address on our
19 break?

20 MS. HECTOR: No, Your Honor.

21 MR. SOSINSKY: No, sir.

22 THE COURT: All right. We'll take ten minutes and
23 then we'll resume.

24 (Recess taken.)

25 (In open court.)

Nazia Khanum testimony read

1192

1 THE COURT: Shall we get the jury?

2 MS. HECTOR: Yes, Your Honor.

3 (Pause.)

4 THE COURT: And we will resume the testimony at the
5 top of page 51 when the jury comes in.

6 (Jury enters the courtroom.)

7 THE COURT: Thank you, ladies and gentlemen of the
8 jury. Please be seated.

9 We will continue with the testimony. We are now at
10 the top of page 51 which begins with a question.

11 Please read.

12 AS READ INTO THE RECORD BY MS. SCHMID: (Continued)

13 BY MS. HECTOR:

14 Q What shop is nearby?

15 A Grocery shop like they have in village.

16 Q Is the area where the pole is referred to as Adda?

17 A No, no, it's not Adda. It's a pole in the street.

18 Q Ms. Khanum, if you were to describe to me how you would
19 get to the pole if you walked out of the front door of your
20 house, could you do that?

21 A I walk to the pole.

22 Q Where is the pole in relation to Iqbal Patwari's house?

23 A I cannot tell you the distance, but when you go from the
24 roadside or from Iqbal Patwari, it's in the front.

25 Q Can you see Iqbal Patwari's house from, if you were

Nazia Khanum testimony read

1193

1 standing at the pole, can you see Iqbal Patwari's house?

2 A No.

3 Q So you get dropped off at the pole, right?

4 A Little bit distance from the pole where I was dropped
5 off.

6 Q Can you tell us approximately how far the pole is from
7 Iqbal Patwari's house?

8 A Madam, as I told you before, I have never measured it, so
9 I cannot tell you.

10 Q How long would it take to walk from the pole to Iqbal
11 Patwari's house?

12 A Few seconds, minutes.

13 Q It would take you a couple minutes to walk from the pole
14 to Iqbal Patwari's house?

15 A Not minutes, not minutes, not minutes. Immediately in
16 front of his house.

17 Q You said a minute ago --

18 A Seconds.

19 Q Ms. Khanum, you said a minute ago that you can't see
20 Iqbal Patwari's house from the pole, correct?

21 A Right, no, you could not see from there.

22 Q So after you got dropped off at the pole, you said you
23 started to walk?

24 A Yes, I walked.

25 Q Did you see anyone else on the street at that time?

Nazia Khanum testimony read

1194

1 A No, I didn't see anyone there.

2 Q You didn't see any mothers going to pick up their
3 children at school?

4 A No.

5 Q How long after you were dropped off did you hear
6 shooting?

7 A When I was dropped off, I picked up my bag and a bike
8 passed by me and immediately I heard the shooting.

9 Q How many steps do you think you had taken after getting
10 dropped off before you heard shooting?

11 A As I told you that village streets are long. If you
12 stand on one corner, you can see the other corner of the
13 street.

14 Q But what I'm trying to understand, Ms. Khanum, is you
15 said you heard shooting almost immediately, is that fair?

16 A Yes.

17 Q Is it fair to say that you get off the rickshaw, you see
18 a bike pass you, and then you immediately hear shooting?

19 A No. When bike was out of my sight, then I heard the
20 firing.

21 Q So let's talk about the bike for a second.

22 A Yes.

23 Q You said you saw three people on the bike, right?

24 A Yes, yes, there were three people.

25 Q And can you tell me again who those three people were?

Nazia Khanum testimony read

1195

1 A One boy and one Asghar and his daughter.

2 Q Who was driving the bike?

3 A It was the boy, he was driving.

4 Q Who was immediately -- where were Asghar and his daughter
5 seated?

6 A Asghar was sitting right behind a boy and the daughter
7 was sitting behind him, behind Asghar.

8 Q Earlier when Mr. Sosinsky was asking you questions, you
9 referred to the boy as Zameer; is that right?

10 A Yes, I heard later on that boy's name was Zameer. I
11 didn't know who he was before.

12 Q So at the time you saw the bike pass, you didn't know
13 that that boy's name was Zameer, right?

14 A I didn't know his name, but all I knew was that this boy
15 was living in Rukhsana's house.

16 Q But you didn't know his name?

17 A No, no, I knew his name about two or three days later.

18 Q How did you find out his name?

19 A Like women talk in the village and they were talking like
20 this boy was living in the house, in his house. His name
21 was -- I think -- I'm not sure about the name, but it was
22 Fazal Haseein's son.

23 Q So that's something you heard in the village later,
24 right?

25 A Yes, later on I found out that he was the son of Fazal

Nazia Khanum testimony read

1196

1 Hassein.

2 Q But now when you're testifying, you're calling the boy on
3 the bike who you saw run off later, you're calling him Zameer?

4 THE COURT: "Mr. Sosinsky: Objection.

5 "By Ms. Hector: Is that right?

6 "A. Clearly yes, for sure it was him riding the
7 bike."

8 Go on.

9 Q You said the bike passed and then you heard shots, right?

10 A Yes.

11 Q How many shots did you hear in total?

12 A It was like blasts of the gun, like so many shots at the
13 same time. I heard that.

14 Q What did you do as soon as you heard the shots?

15 A When I saw them falling on the ground and they were
16 fighting at them and I was standing close to the wall and I
17 thought I'm about to die.

18 Q So let me ask you a couple questions about that, okay.

19 You said a minute ago that the bike passed you,
20 right?

21 A Yes.

22 Q Right. And then you said the bike went out of sight,
23 right?

24 A Yes, yes.

25 Q And then you heard shots, right?

Nazia Khanum testimony read

1197

1 A In the meantime, I arrived by the corner.

2 Q And you were right by the corner when you heard the
3 shots; is that right?

4 A Yes, that's right.

5 Q So when you heard the shots, the bike was out of sight,
6 right?

7 A It was at some distance from me.

8 Q Was the bike in sight or out of sight when you heard the
9 shots?

10 A I could see that.

11 Q So a second ago, Ms. Khanum, you said that the bike was
12 out of sight when you first heard the shots.

13 THE INTERPRETER: You said second, right?

14 BY MS. HECTOR:

15 Q A second ago.

16 A Yes.

17 Q What did you do immediately after hearing the shots?

18 A Nothing. What could I have done? I was standing -- I
19 stood close to the wall and putting my head against the wall.

20 Q So you put your head against the wall, right? You put
21 your head against the wall?

22 A Yes, that's right.

23 Q And that was because you were scared, right?

24 A Yes, I was scared.

25 Q You said you thought you might get shot, right?

Nazia Khanum testimony read

1198

1 A Yes, I thought that I won't be able to go home. They
2 will shoot me soon.

3 Q So despite the fact that the bike was out of sight when
4 you saw the shots and you put your head against the wall,
5 you're saying that you saw the shooters; is that right?

6 A Yes, I was able to see them.

7 Q Can you describe these two shooters to the best of your
8 ability with as much detail as possible?

9 A They looked like Pakistani men as they are Pakistanis.

10 Q Did either of them have facial hair?

11 A No, they had no facial hair.

12 Q Did either of them have anything on their heads?

13 A No, they had nothing on their head.

14 Q Did they have masks over their faces?

15 A No, no, they had naked faces.

16 Q Were they tall or short?

17 A Medium, like a medium person.

18 Q How long would you say you were looking at the two
19 shooters?

20 A I saw them until I saw them firing, falling down, the son
21 and the daughter and the father on the ground until they left.

22 Q How long do you think that time period was that you were
23 looking at the shooters?

24 A I cannot tell you that. I cannot guess because I was
25 thinking now they will come to me.

Nazia Khanum testimony read

1199

1 Q Approximately how far from you were the shooters when you
2 were looking at them?

3 A I cannot guess that, but I can tell you that I could see
4 their faces very well.

5 Q If you had to approximate now how far you were --

6 THE COURT: "If you had to approximate how far."
7 There's no "now" there.

8 Q How far you were from the shooters, what would your
9 approximate be?

10 A Far from me or from them?

11 Q The distance between you and the shooters when you were
12 observing them.

13 A Where this firing took place, it was in front of Akram's
14 gate.

15 Q Akram's gate?

16 A A-K-R-A-M and they were there and where I was standing it
17 was from there, that place, it was two doors distance and over
18 there the gate's already closed, so I would say like about 30
19 meters.

20 Q Okay. So Ms. Khanum, at the time you claim to have seen
21 the shooters, were they firing their guns when you saw them?

22 A Yes.

23 Q And when you first saw the shooters firing the guns, were
24 Asghar and his daughter and the boy still on the motorbike or
25 not?

Nazia Khanum testimony read

1200

1 A Would you repeat it?

2 Q Sure. When you first saw the shooters firing their guns,
3 were Asghar and his daughter and the boy on the bike or not on
4 the bike?

5 A Like when a person's falling down from the bike, like
6 that.

7 Q So as you saw the shooting, you saw these individuals
8 fall off the bike; is that right?

9 A Yes, almost on the ground.

10 Q Besides the two shooters and the three people on the
11 bike, did you see anyone else in the street?

12 A No, there was nobody else there.

13 Q Did you see anything unusual about the street?

14 A No, I had not seen any unusual thing over there in the
15 street.

16 Q Did you see any objects in the street?

17 A When the shooters left after that, I went close to the
18 bodies and I see there was a iron frame was laying on the
19 ground nearby their bodies.

20 Q But you didn't notice that before the shooters left,
21 right?

22 A No, I couldn't see it because when they were falling off
23 the bikes, I couldn't see that object.

24 Q Did you see the two men, the shooters, leave the area?

25 A Yes.

Nazia Khanum testimony read

1201

1 Q Were they on foot or were they on motorbike?

2 A They were on foot.

3 Q Did you see which direction they went in?

4 A I guess they left towards left.

5 Q Is that in the direction of a landmark or someone's house
6 you can give us?

7 A You cannot see anybody's house from there, but there are
8 two streets on that side, but I'm not sure what street they
9 went to.

10 Q When they left, the two shooters, were they running or
11 walking?

12 A Normally.

13 Q Now, you said that before hearing the shots, the bike
14 passed you, right?

15 A Yes, yes.

16 Q When you saw the shooters firing at the bike, were the
17 shooters in front of the bike or behind the back of the bike?

18 THE WITNESS: Bike was towards the wall and they
19 were standing like somebody standing close to your head, like
20 close to the bike.

21 BY MS. HECTOR:

22 Q When you say that the shooters were standing towards the
23 head, can you give us any more details such as were they near
24 the front tire, the back tire, some other part of the bike?

25 A Like you said, in the middle, from the front tire, not in

Nazia Khanum testimony read

1202

1 the back, but close to the middle.

2 Q After you saw the shooters leave normally, what was the
3 next thing you did?

4 A First of all, I was standing next to the wall when I saw
5 them leaving and the very first thing I did was I was trying
6 to go from the back side.

7 Q What do you mean trying to go from the back side?

8 A Because when I saw them that they was there the moment
9 and I saw them maybe they might be coming towards me and I
10 started moving back.

11 Q So you started moving away from where the motorbike and
12 Asghar and his daughter were, correct?

13 A Yes, the place I was coming from I started moving back.
14 I didn't started going towards that place.

15 Q Because you were scared, right?

16 A Yes. I thought they were still there and I start -- I
17 tried to go on the back side.

18 Q And so what did you do after you started moving further
19 away from the scene?

20 A There was a door in the back side. I did not enter the
21 door. I just sat down by the door because I was shocked.

22 Q Did you just walk towards that door, or did you run
23 towards the door?

24 A I was holding on to the wall and I was walking fast to
25 that place.

Nazia Khanum testimony read

1203

1 Q So then while you were sitting in the doorway, what did
2 you do?

3 A I had my head in my knees and in the meantime, people
4 started getting over there.

5 Q Did you call the police?

6 A No, no, I didn't.

7 Q Why didn't you call the police?

8 A Because I was sitting down and I was scared and I saw
9 people going towards there and I started going back to my
10 house.

11 Q But you had your cellphone in your bag, right?

12 A Yes, I had a cellphone.

13 Q And so while you're sitting in that doorway, you said
14 people started coming around?

15 A Obviously people heard the noise of firing and they
16 started coming. They were coming out of their houses.

17 Q And when you saw these people, did you tell them what you
18 just saw?

19 A No, I didn't tell anything to anyone.

20 Q Did any of the people comfort you and come over to where
21 you were sitting?

22 A No, no. When the people heard the firing, they were just
23 walking around and nobody was trying to ask anything to anyone
24 and I was just sitting down there.

25 Q Why wasn't anyone asking anyone anything, if you know?

Nazia Khanum testimony read

1204

1 A Because everyone was very upset. Nobody was even thought
2 about asking something to anyone. Everybody was very upset.

3 Q Did you eventually decide that it was safe enough to move
4 from the doorway that you were sitting in?

5 THE WITNESS: When I saw that people were coming out
6 of their houses and then I thought then I should go back to my
7 house. When I thought of getting up and going towards my
8 house, I saw that boy. He got up who was by the dead bodies
9 who was riding on the bike leaving.

10 BY MS. HECTOR:

11 Q I'm sorry, can you repeat that?

12 A When I thought of going to my house and I saw the boy who
13 was riding on the bike who was by the dead bodies leaving that
14 place.

15 Q Did you see that from the doorway that you were sitting
16 in?

17 A No, I couldn't see from there, but when I moved little
18 bit and then I was able to see him.

19 Q So at some point you decide that it's safe enough to get
20 up out from the doorway and you start walking towards your
21 house, right?

22 A Yes.

23 Q And you said at that point you saw the injured boy?

24 A I saw him getting up and leaving.

25 Q Did you actually see him get up from the scene of the

Nazia Khanum testimony read

1205

1 crime and where the bike was?

2 A Yes, I did see him going.

3 Q Was he walking or was he running?

4 A No, he was walking like a person who's injured walks.

5 Q Did you see any injuries on him?

6 A I saw him that he was unable to walk properly from one
7 leg, but I couldn't see what kind of injury he had on his leg.

8 Q Did you hear him ask anyone for help?

9 A No.

10 Q Did you see anyone attempt to help him?

11 A No. People saw as they was looking at the dead bodies
12 that they left the scene and they went on the roofs.

13 Q So the question is did you see anyone attempt to help the
14 injured boy?

15 A No, nobody did.

16 Q As you walked back towards your house, how close did you
17 get to the two bodies?

18 A I passed by them and I went to home.

19 Q Did you look at the two bodies?

20 A Yes, I was scared and I was walking on the side and I saw
21 them and went home.

22 Q Can you describe the position of the two bodies?

23 A I went home and I put my bag and I went on the roof and
24 everybody was on their roofs.

25 Q I'm talking about when you saw the two bodies --

Nazia Khanum testimony read

1206

1 THE COURT: "I'm asking."

2 Q I'm asking about when you saw the two bodies when you
3 first passed the two bodies. I'm asking you to describe --
4 I'm sorry, Ms. Khanum, I'm asking you to describe the position
5 of the two bodies when you first passed them.

6 A Like the daughter was on the side close to the gutter
7 and --

8 Q Where was Asghar?

9 A Asghar was inside you call the frame of the bed. He was
10 inside there.

11 Q Was he facedown or faceup?

12 A I was unable to see the face because his face was covered
13 with the blood. He was bleeding.

14 Q Was he faceup or facedown?

15 A I wasn't able to see because his face was covered with
16 the blood if he was facing down or he was facing up.

17 Q Was he lying on his back or on his stomach?

18 A You couldn't see his head. I was unable to see his head.

19 Q Ms. Khanum, I'm asking about his body. Was his body --
20 was he laying on his stomach or was he laying on his back?

21 A Like a person lays on his stomach like that.

22 Q What about the girl, was she laying on her stomach or on
23 her back?

24 A Her head was like, as I told you, there was a small
25 gutter by that and it was like when you lay down on your side.

Nazia Khanum testimony read

1207

1 Q And Ms. Khanum, you said you saw Rukhsana appear at the
2 scene; is that right?

3 A I saw Rukhsana coming out of her house.

4 Q And you said Rukhsana had nothing on her head; is that
5 right?

6 A When Rukhsana was coming out of her house, she was crying
7 and her head was naked. She was not wearing anything on her
8 head, but later on when women gathered and some women gave her
9 a cap and d-u-p-a-t-t-a to wear.

10 Q Do you know the name of the woman who you saw give
11 Rukhsana the scarf?

12 A No, I cannot tell you because almost half of the village
13 was there on the streets and people were all around, so I
14 cannot tell you that.

15 Q After you saw someone give Rukhsana the scarf, did
16 Rukhsana put it on her head?

17 A She wore cap on her head and she was wrapping the scarf
18 around her.

19 Q Was she wrapping the scarf around her head?

20 A No, she was wearing a cap on her head.

21 Q Did you say that the woman also handed Rukhsana a scarf
22 for her head, a dupatta?

23 A It was like that. We were sitting on top of our roof and
24 we were sitting by the wall. We were sitting and getting up
25 and looking at and sitting like that.

Nazia Khanum testimony read

1208

1 Q I just want to be clear, you said you saw --

2 THE COURT: "I just want to make clear."

3 Q I just want to make clear, you said you saw a woman hand
4 Rukhsana a headscarf, correct?

5 A No, I did not see any woman giving her dupatta, but later
6 on when I saw she had, she was wearing dupatta, maybe some
7 woman had given it to her.

8 Q Ms. Khanum, a moment ago you said you saw a woman hand
9 Rukhsana a headscarf. Is that --

10 A Yes. It's obviously because there were so many women
11 over there and maybe one of them she might have given it to
12 her. Obviously she didn't get chance to go home and wear it.

13 Q Ms. Khanum, when you were being asked questions by the
14 previous lawyer, do you remember that, you referred to a lady
15 handing Rukhsana a headscarf and you said specifically "I saw
16 that."

17 Do you remember that?

18 A No, no, I saw him [sic] coming out of the house with a
19 naked head, but maybe someone give it to her later on, but
20 when she left the house, she was not wearing anything on her
21 head.

22 Q Ms. Khanum, you also said that you saw Zameer pass by in
23 a Jeep of some sort; is that right?

24 A Yes, it was Rukhsana's vehicle. He was driving that.

25 Q How do you know that it was Rukhsana's vehicle?

Nazia Khanum testimony read

1209

1 A Since they were living in this house and they had owned
2 this vehicle, I used to see him passing by from my house in
3 that vehicle.

4 Q When you saw the boy pass by in the vehicle, was there
5 anything unusual that you noticed about the vehicle?

6 A No, nothing. I just saw him leaving in that vehicle.

7 Q You didn't notice any bullet holes in the vehicle that
8 the boy was driving, correct?

9 A I saw the vehicle from top of my roof, but I couldn't see
10 the vehicle proper.

11 Q So just to be clear, after you got home, you went up to
12 the roof and you were viewing the scene from the roof of your
13 home; is that right?

14 A Yes, later on I saw everything from up top of my roof.

15 Q And at some point, you saw the police bring Nayab to the
16 scene, right?

17 A Yes, both of them.

18 Q What do you mean when you say both of them?

19 A I saw both of them, Nayab and Seemab, bring Nayab and
20 Seemab there.

21 Q But you only saw the police bring Nayab, correct?

22 A Also to Seemab, both of them.

23 Q Ms. Khanum, do you remember being interviewed on January
24 23rd of this year by someone named Yamina Meesa in Chiryawala?

25 THE INTERPRETER: Yamina Meesa?

Nazia Khanum testimony read

1210

1 MS. HECTOR: Yamina Meesa.

2 THE INTERPRETER: It's 2013, right?

3 MS. HECTOR: Uh-uh, no, 2013.

4 THE INTERPRETER: I'm sorry.

5 THE WITNESS: No, I don't remember the name, but a
6 woman came. I met her.

7 BY MS. HECTOR:

8 Q So you remember a woman coming to Chiryawala and
9 interviewing you; is that right?

10 A Yes.

11 Q And that was earlier this year; is that correct?

12 A I don't remember the exact date, but a woman came there.

13 Q And when the woman came to interview you, she asked you
14 about your recollections of February 25th, 2013, right?

15 A Yes, yes.

16 Q And did she tell you that it was important that you tell
17 her the truth?

18 A Yes.

19 Q And did you answer her questions?

20 A Yes, I did it.

21 Q And did you tell her the truth?

22 A Yes, absolutely, what I had seen I told her.

23 Q And when you were talking to her, she took notes of what
24 you were saying, right?

25 A Yes, she has a diary. She was noting down everything in

Nazia Khanum testimony read

1211

1 that.

2 Q And Ms. Khanum, isn't it correct that when you were
3 talking to this woman you said, quote, I don't remember who
4 got there first, whether it was the daughters or the police.
5 I think the police brought one of the daughters, unquote?

6 A Later on the place brought both the daughters there.

7 Q Ms. Khanum, my question is do you remember saying to the
8 female interviewer that you think the police brought one of
9 the daughters, not both?

10 A They brought both of them, but separately.

11 Q Ms. Khanum, it's your understanding, correct, that the
12 woman who interviewed you was part of the defense team in this
13 case?

14 A No, I didn't know that.

15 Q Who called you to let you know that this woman would be
16 coming to interview you?

17 A First of all, I didn't tell anyone that I was the -- I
18 witnessed this incident.

19 Q You didn't tell anyone that you were an eyewitness of the
20 incident?

21 A I was so scared, I did not tell anyone that I had seen
22 everything, but later on I told her.

23 Q Ms. Khanum, who contacted you about a woman coming to
24 interview you about the facts of the incident?

25 A As I told you, I had not told about this to anyone.

Nazia Khanum testimony read

1212

1 Ajmal's sister's husband, he was work in the same education
2 department as me.

3 Q And did Ajmal's sister's husband tell you that this woman
4 would come and interview you about the events?

5 A No, no, I started knowing his sister because he was in
6 the same department where I was. He passed away and she used
7 to come and see me because he was a --

8 THE COURT: "He has."

9 A He has a pension problem. So that's how I know her.

10 Q Ms. Khanum, my question is a simple one. Please listen
11 to it.

12 Who told you that a woman was going to come and
13 interview you about the events on February 25th?

14 A As I told you, I had not told anyone about this incident.
15 When his sister came to me and I told her that I had seen
16 everything.

17 Q When you say his sister, do you mean Ajmal's sister?

18 A Yes.

19 Q After you told Ajmal's sister that you saw everything, a
20 woman came and interviewed you and asked you questions; is
21 that correct?

22 A Yes.

23 Q And did Ajmal's sister tell you that a woman would be
24 contacting you to interview you?

25 A Yes, she told me that if you had seen anything then you

Nazia Khanum testimony read

1213

1 must --

2 THE COURT: "Everything."

3 A If you had seen everything, then you must tell the truth.

4 Q Ms. Khanum, were you aware of an issue between Ajmal's
5 family and Asghar's family regarding a relationship between
6 Amina and Shujat?

7 A No. I just knew it that they were related to each other
8 and I have never heard about their relationship.

9 Q Never in your life have you heard about a romantic
10 relationship between Shujat and Amina?

11 A This kind of thing cannot -- it can be revealed very
12 easily and you cannot hide it.

13 Q And you never heard any rumors or gossip about such a
14 thing, right?

15 A Never. As far as I know, I never heard it.

16 Q Did you ever hear that Amina left her husband's home in
17 Pakistan and fled to the United States?

18 A No, I didn't hear that she left her husband and went to
19 America, but I just heard that she had left.

20 Q So you did hear that Amina left for America, correct?

21 A I didn't hear that she left the house and left, but I
22 just heard that she had left to America.

23 Q Ms. Khanum, if it were true that Amina and Shujat had a
24 romantic relationship, that would be very embarrassing for
25 Ajmal's family in your village, correct?

Nazia Khanum testimony read

1214

1 MR. SOSINSKY: Objection.

2 THE WITNESS: I never heard that they had any kind
3 of relationship.

4 BY MS. HECTOR:

5 Q I'd like to focus your attention to the time period after
6 the murders on February 25th.

7 A Yes.

8 Q After Asghar and Madeeha were murdered, were you aware
9 that members of Ajmal's family went into hiding?

10 A I was so scared I used to keep my doors closed and how
11 would I know what was going on among them.

12 Q Have you seen Akmal since February 25th, 2013?

13 THE WITNESS: I had not seen even before or later,
14 never.

15 BY MS. HECTOR:

16 Q The question is have you seen Akmal since February 25th,
17 2013?

18 A No, I didn't see him.

19 Q Have you seen Nisar Ahmed since February 25th, 2013?

20 A No.

21 Q Have you seen Amina's husband Babar since February 25th,
22 2013?

23 A My house is far from their house. I have never seen them
24 before and have never seen them after that.

25 Q You certainly saw Babar before February 25th, 2013,

Nazia Khanum testimony read

1215

1 correct?

2 A It's like this, they were from my village and I had seen
3 them on the street or sometimes walking in the village, but I
4 cannot say that I know him for many years.

5 Q Do you read newspapers?

6 A No, I don't read newspaper.

7 Q You have a cellphone, right, Ms. Khanum?

8 A Yes, I have a cellphone.

9 Q What is your cellphone number?

10 A 03007441031.

11 Q Do you also have a landline in your home?

12 A Yes, we have BTC phone is always dead.

13 Q What is the phone number?

14 A Most of the time not.

15 Q What is the phone number of your landline?

16 A 544.

17 Q So I'm sorry, Ms. Khanum, if I could just ask you again
18 for the phone number of your landline in your home.

19 A 544127.

20 Q It's just six numbers?

21 A No, you need to use 0537 before that.

22 Q So 0537544127?

23 A Yes.

24 Q That still seems short one digit, Ms. Khanum.

25 A 0537544127.

Nazia Khanum testimony read

1216

1 Q How long has that been your landline number?

2 A I don't remember the exact year, but since we have this
3 in our village we have it.

4 Q What about your cellphone number, how long has that been
5 your cellphone number that you gave us?

6 A About three to four years.

7 Q So the murders on February --

8 THE COURT: "Since."

9 Q Since the murders on February 25th, have you spoken to
10 any members of Ajmal's family?

11 A No.

12 Q Have you spoken to Shakeel, his son?

13 A No, not with Shakeel.

14 Q Have you spoken to Jamil or Khalil?

15 A I haven't seen them, ma'am.

16 Q Have you spoken to any of the women in Ajmal's family
17 since February 25th, 2013?

18 A Yes, I have seen them.

19 Q Have you spoken with them?

20 A No.

21 Q When was the last time you saw one of the women in
22 Ajmal's family?

23 A I have seen all of the women who are in his house.

24 Q You said you spoke to Naseem before you were interviewed
25 in Chiryawala; is that right?

Nazia Khanum testimony read

1217

1 A Yes, I saw Naseem.

2 Q And what did you talk about?

3 A She came to my house to get some information about her
4 husband's pension.

5 Q Did you talk about the events of February 25th, 2013 with
6 Naseem?

7 A I told her that I'll give her the information after
8 getting it from my office after day or two. Then I went to
9 her house to give that and I told her over there.

10 Q My question is did you talk to her, did you talk to
11 Naseem, the defendant's sister, Ajmal's sister, about the
12 events of February 25th?

13 A Yes, I did it.

14 Q And what did you talk about with her specifically?

15 A I told her that I have seen everything when I was coming
16 back from school.

17 Q Who contacted you about testifying here today?

18 A He did it, a he or she.

19 Q Who is he or she?

20 A I'm talking about his sister.

21 Q Ajmal's sister?

22 A Yes.

23 Q Ms. Khanum, do you know someone named Manzoor Ahmed?

24 A There are so many Manzoores in our village.

25 Q Do you know any Manzoor Ahmeds who are close with Ajmal's

Nazia Khanum testimony read

1218

1 family?

2 A There's no one by this name in his family.

3 Q I'm saying do you know any Manzoor Ahmeds who are close
4 to Ajmal's family?

5 A No, it's not in my notice.

6 Q Ms. Khanum.

7 A I didn't notice.

8 Q Ms. Khanum, the United States Government offered to get
9 you travel documents to come to the United States to testify
10 in this case, right?

11 A His sister told me that I can go, but I told her I don't
12 want to go.

13 Q So you refused to come and testify in person, correct?

14 MR. SOSINSKY: Objection.

15 THE WITNESS: I cannot go there because I have my
16 own family problems.

17 BY MS. HECTOR:

18 Q Ms. Khanum, do you understand that if you were to testify
19 in person in the United States and lie, you could be held here
20 and charged with perjury?

21 THE WITNESS: Yes.

22 BY MS. HECTOR:

23 Q And do you also understand that if you testify falsely
24 today, Pakistan will not send you to the United States for
25 prosecution?

Nazia Khanum testimony read

1219

1 MR. SOSINSKY: Objection.

2 THE WITNESS: Would you please repeat it.

3 BY MS. HECTOR:

4 Q Certainly. Do you understand that if you testify falsely
5 today from Pakistan, your country Pakistan will not send you
6 to the United States to be prosecuted for perjury?

7 THE WITNESS: I didn't understand your question.

8 BY MS. HECTOR:

9 Q Let me break it down for you. I'll ask it again.

10 The question is do you understand that if you
11 testify falsely today, Pakistan, your country, will not send
12 you to the United States to be prosecuted for lying?

13 A They won't send me here means what?

14 Q That's is Ms. Khanum. I'm finished with my questions.

15 A I didn't understand your question. What were you talking
16 about? Where they won't send me?

17 THE COURT: Redirect examination on page 83.

18 BY MR. SOSINSKY:

19 Q Ms. Khanum, you were just asked some questions about
20 whether or not you were aware of what could and could not
21 happen to you if you are not telling the truth about your
22 testimony.

23 A Sir, I'm not speaking lying.

24 Q Well, my next question was are you telling the truth
25 today about what you saw on February 25th, 2013?

Nazia Khanum testimony read

1220

1 A Okay.

2 Q Are you telling the truth about what you've described
3 observing that day?

4 A Yes, I told the whole truth.

5 Q You were asked questions by the prosecutor regarding
6 whether you attended certain weddings back in your village.

7 Do you remember being asked questions about that
8 earlier?

9 A Yes.

10 Q Based on your knowledge within your village, is it common
11 for townspeople to attend the weddings of family members who
12 reside in the village?

13 A Yes, those who are invited, they do come.

14 Q What about for a funeral proceeding?

15 A In that case also the whole village people go to say
16 their condolences for the deaths.

17 Q You told us earlier about having observed two men firing
18 shots at the three people you saw on the motorbike.

19 My question was this woman Rukhsana Kousar, there on
20 the street when you saw the two men firing at those three
21 people?

22 A No, not at all. When I went to my house, I went on the
23 top my house roof. At that time, I saw Rukhsana coming.

24 Q When you say coming, going to the scene of the shooting?

25 A Yes, yes, she was crying and going towards there.

Nazia Khanum testimony read

1221

1 Q I have the same question to you regarding Rukhsana's
2 daughter Seemab. Was Seemab present at the scene of the
3 shooting when you saw the two men shooting at those three
4 people?

5 A No, she was not there.

6 Q Earlier you were asked by the prosecutor questions about
7 seeing Rukhsana's daughters, two of them, come to the scene of
8 the shooting. Do you remember being asked, just yes or no,
9 about that?

10 A Yes, I saw them coming.

11 Q Did you see them at the scene of the shooting before or
12 after the shooting had occurred?

13 A Yes, it was almost 20, 25 minutes after that shooting
14 then Seemab came.

15 Q And when you saw Seemab there, did you see police
16 officers in the same area?

17 A Yes, police was there, but as I don't know whether the
18 police brought -- brought her over there, but I saw that along
19 with her.

20 Q That being the police along with her, is that what you're
21 referring to?

22 A Yeah. It looks like that the policemen got her.

23 Q And who is the, quote, her, unquote, that you're
24 referring to?

25 A Yes, I saw bringing Seemab over there.

Nazia Khanum testimony read

1222

1 Q That's all. Thank you.

2 READ-IN TESTIMONY CONCLUDED

3 THE COURT: All right. Ladies and gentlemen of the
4 jury, that concludes the testimony of that witness.

5 I see it's now two o'clock. We'll take our lunch
6 recess and resume at three o'clock. And again, please do not
7 talk about the case or the testimony and we'll see you at
8 three o'clock. Thank you.

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10 (Jury exits the courtroom.)

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1 THE COURT: The jury has left the courtroom.

2 Thank you, Madam Reader. You may step down.

3 I'm going to give the court reporter, with the
4 permission of counsel, a copy of Defendant's B to assist the
5 preparation of the testimony that was just read.

6 Any objection in that?

7 MR. SOSINSKY: No, sir.

8 MS. HECTOR: No, Your Honor.

9 THE COURT: And Mr. Jackson will hang on to that.

10 Now, we have to go over the requests to charge.
11 When would you folks like to do that? Would you like to get
12 a quick bite to eat first, or would you like to do it now?

13 MR. SOSINSKY: Judge, I need a bite to eat, if I
14 could.

15 THE COURT: Sure. Why don't we get back here at
16 2:40 and we'll go over it so we can bring the jury in close to
17 three o'clock.

18 Also, we have for your delectation, the draft
19 verdict form which we will now give to you to take a look at
20 as well in addition to the requests to charge.

21 Is that acceptable?

22 MR. SOSINSKY: Yes, Your Honor.

23 MS. HECTOR: Yes, Your Honor.

24 MR. SOSINSKY: Judge, before we break, can we hand
25 up, both the Government and I have one additional request to

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1 charge for you to take a look at.

2 THE COURT: You can hand it up. What we'll do is
3 we'll go through page-by-page when we come back. So I'll take
4 a look at what you've got with my learned colleagues during
5 the break.

6 MR. SOSINSKY: Thank you.

7 MR. TUCKER: Thank you, Your Honor.

8 THE COURT: This is an agreed upon -- I'm sorry, did
9 you say this was an agreed upon document with the Government?

10 MR. TUCKER: That's correct, Your Honor.

11 THE COURT: So what am I -- you have a stipulation
12 regarding post-arrest statement; is that right?

13 MR. TUCKER: No, Your Honor. Those are both just
14 proposed additions to Your Honor's charge, which we agree
15 upon.

16 THE COURT: I've got a piece of paper that's labeled
17 "stipulation."

18 MR. SOSINSKY: Did I hand up the wrong one?

19 THE COURT: Is that what I'm supposed to have? And
20 then something about immunity.

21 MR. TUCKER: I suspect that's been miss-captioned,
22 Your Honor.

23 THE COURT: I tell you what, why don't I hand this
24 back. Why don't you guys look at it during the lunch break
25 and then we'll go through my requests to charge and then I'll

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1 take a look at whatever you ladies and gentlemen wish to hand
2 up afterwards.

3 MR. TUCKER: That makes sense, Your Honor.

4 THE COURT: We'll see you at 2:40.

5 (Luncheon recess taken.)

6 (Continued on following page.)

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1 THE CLERK: All rise.

2 THE COURT: Please be seated. I appreciate your
3 taking a quick lunch and returning here.

4 Let us begin our review of the proposed jury charge.
5 Each of you should have what has been marked as Court Exhibit
6 5 for identification and Court Exhibit 6 for identification.

7 Court Exhibit 5 for identification is the Court's
8 prepared -- thank you -- the Court's prepared draft of the
9 proposed jury charge. That's Court 5.

10 I will go page-by-page as we go through and you
11 should also have four, Exhibit Number 6, which is the proposed
12 verdict sheet.

13 What we'll do is, we'll go page-by-page beginning at
14 page one of the jury charge, and I will ask the prosecution to
15 go first with respect to any objections or comments they have
16 on a page-by-page basis and then we'll ask the defendant.

17 So let me hear from the prosecution, any comments
18 with respect to page one?

19 MR. TUCKER: No, your Honor. I --

20 THE COURT: You see now? I knew nobody can just do
21 it my way. That's okay.

22 MR. TUCKER: No objection, Your Honor.

23 THE COURT: It's so hard.

24 Defense counsel, any comments or objections with
25 respect to page one?

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1 MR. SOSINSKY: I'm going to do it your way. No.

2 THE COURT: Thank you.

3 Page two, prosecution?

4 MR. TUCKER: No, Your Honor.

5 THE COURT: Defense?

6 MR. SOSINSKY: No.

7 THE COURT: Page three.

8 MR. TUCKER: No, Your Honor.

9 MR. SOSINSKY: No.

10 THE COURT: Page four?

11 MR. TUCKER: No, Your Honor.

12 MR. SOSINSKY: No.

13 THE COURT: Page five?

14 MR. TUCKER: No, Your Honor.

15 MR. SOSINSKY: No.

16 THE COURT: Page six?

17 MR. TUCKER: No, Your Honor.

18 MR. SOSINSKY: No.

19 THE COURT: Page seven?

20 MR. TUCKER: No, Your Honor.

21 MR. SOSINSKY: No.

22 THE COURT: Page eight?

23 MR. TUCKER: No, Your Honor.

24 MR. SOSINSKY: No.

25 THE COURT: Page nine?

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1 MR. TUCKER: No, Your Honor.

2 MR. SOSINSKY: No.

3 THE COURT: Page ten?

4 MR. TUCKER: No, Your Honor.

5 MR. SOSINSKY: No.

6 THE COURT: Page 11?

7 MR. TUCKER: No, Your Honor.

8 MR. SOSINSKY: No.

9 THE COURT: Page 12?

10 MR. TUCKER: No, Your Honor.

11 MR. SOSINSKY: No.

12 THE COURT: Page 13?

13 MR. TUCKER: No, Your Honor.

14 MR. SOSINSKY: No.

15 THE COURT: Page 14?

16 MR. TUCKER: No, Your Honor.

17 MR. SOSINSKY: No.

18 THE COURT: Page 15?

19 MR. TUCKER: No, Your Honor.

20 MR. SOSINSKY: No.

21 THE COURT: Page 16?

22 MR. TUCKER: No, Your Honor.

23 MR. SOSINSKY: No.

24 THE COURT: Page 17?

25 MR. TUCKER: No, Your Honor.

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1 MR. SOSINSKY: No.

2 THE COURT: Page 18?

3 MR. TUCKER: No, Your Honor.

4 MR. SOSINSKY: No, sir.

5 THE COURT: Page 19?

6 MR. TUCKER: No, Your Honor.

7 MR. SOSINSKY: No.

8 THE COURT: Page 20?

9 MR. TUCKER: No, Your Honor.

10 MR. SOSINSKY: No.

11 THE COURT: Page 21?

12 MR. TUCKER: No, Your Honor.

13 MR. SOSINSKY: Your Honor, the instruction with
14 regard to similar acts, we would -- the government and I were
15 just discussing this. Certainly, your instruction doesn't
16 reference anything at all in the evidence that the jury has
17 hear. I am -- nor does the instruction as proposed instruct
18 the jury what the limited purpose of consideration of such
19 evidence might be for.

20 THE COURT: I'm not sure I accept your
21 characterization of what it says. Tell me what your objection
22 is --

23 MR. SOSINSKY: Okay.

24 THE COURT: -- to the language on 21.

25 MR. SOSINSKY: Forgive me, Judge.

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1 THE COURT: That's all right. You're forgiven.

2 MR. SOSINSKY: I'm trying to think through a
3 strategic decision as to whether or not to object or ask Your
4 Honor to withdraw the instruction all together.

5 THE COURT: Well, if you're having trouble on that
6 front, let me help you. I'm certainly not going to withdraw
7 it, so feel free to object to it. You object to the
8 instruction on similar acts on page 21?

9 MR. SOSINSKY: We'll make it simple. Yes, sir.

10 THE COURT: Okay. What is your objection, just so
11 the record is clear?

12 MR. SOSINSKY: The -- to the extent that Your Honor
13 is instructing the jury that they can consider it for the
14 purpose of deciding whether or not the defendant acted
15 knowingly and intentionally and not because of mistake,
16 accident or innocent purpose, we don't think that such
17 evidence was offered for that reason, and we would therefore
18 object.

19 THE COURT: Well, I guess Judge Sand will be
20 interested with your views, but okay, 21, your objection is
21 overruled.

22 Twenty-two?

23 MR. TUCKER: No objection from the government, Your
24 Honor.

25 MR. SOSINSKY: No, sir.

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1 THE COURT: Twenty-three?

2 MR. TUCKER: No, Your Honor.

3 MR. SOSINSKY: No, sir.

4 THE COURT: Twenty-four?

5 MR. TUCKER: No, Your Honor.

6 (Pause in proceedings.)

7 MR. SOSINSKY: I'm sorry. No.

8 THE COURT: Twenty-six?

9 MR. TUCKER: No, Your Honor.

10 MR. SOSINSKY: No.

11 THE COURT: Twenty-seven?

12 MR. TUCKER: No, Your Honor.

13 MR. SOSINSKY: Judge I have a concern with regard to

14 the instruction at the bottom of 27, "Uncalled Witnesses

15 Equally Available." I don't know that it's necessarily a

16 correct statement here, where there are witnesses, for

17 example, overseas, who are not amenable to coming to the

18 United States for either party, as I've heard. I've heard,

19 for example, that the government can't call or has been unable

20 to date to be able to call and bring over here a --

21 detectives, police officers, investigators, for example.

22 THE COURT: Well, the statement in the instruction

23 is, "I instruct you that each party has equal opportunity or

24 lack of opportunity." So I don't see how that could possibly

25 be read as anything other than saying each party had an equal

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1 opportunity or lack of opportunity to call any of these
2 witnesses. Where is the bias tilting in that? Says you were
3 equally able to or equally unable to, level playing field
4 right out of Sand. What's the problem?

5 And it specifically goes on to state that, "You
6 should remember that the law does not impose on a defendant in
7 a criminal case the burden or duty of calling any witnesses or
8 producing any evidence." Couldn't be clearer. Equal
9 opportunity to call a witness or equal lack of opportunity to
10 call a witness. No burden on the defendant. Pure Sand.

11 MR. SOSINSKY: Okay.

12 THE COURT: I mean, if you have a real problem with
13 it, I would be interested in hearing that, but quite candidly,
14 I think if you look at Sand, 1-6, Modern Federal Jury
15 Instructions, Criminal Section 6.04, Instruction 6-7,
16 "Uncalled Witness Equally Available, Matthew Bender and Co.,
17 2013. See also Government's Request to Charge, Docket Number
18 80, at 28, June 9th, 2014, citing United States versus
19 Curanovic, C-U-R-A-N, as in "Nancy," V, as in "Victor," I-C,
20 which is 08 CR 240, Eastern District of New York, 2010, by my
21 learned brother and fellow Wall Street alum, Judge Cogan,
22 distinguished of Stroock, Stroock and Lavan. That's pretty
23 good authority. I'm going to overrule that.

24 Anything else?

25 MR. SOSINSKY: Nothing on that page.

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1 THE COURT: Okay. We're up to 28?

2 MR. TUCKER: No objection from the government on 28,
3 Your Honor.

4 MR. SOSINSKY: No objection.

5 THE COURT: Twenty-nine?

6 MR. TUCKER: No, Your Honor.

7 MR. SOSINSKY: No, sir.

8 THE COURT: Thirty?

9 MR. TUCKER: No, Your Honor.

10 MR. SOSINSKY: Nope.

11 THE COURT: Thirty-one?

12 MR. TUCKER: Your Honor, with respect to 31, the
13 government proposes a brief addition which frankly, we should
14 have included in our proposed charge and I apologize relating
15 to an immunized witness. I can read it slowly into the record
16 and then I have a piece of paper with it typed up.

17 THE COURT: What I'm going to do is, I'm going to
18 take any suggested language you have -- have you shared it
19 with the other side?

20 MR. TUCKER: I have, Your Honor.

21 THE COURT: Is it acceptable to them?

22 MR. TUCKER: It is, Your Honor.

23 THE COURT: Then why don't you just note that and
24 hand it up to my courtroom deputy. I'll take a look at it.

25 MR. TUCKER: (Handing.) Yes, Judge.

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1 THE CLERK: (Handing.)

2 THE COURT: Thank you.

3 MR. TUCKER: Your Honor, that's the government's
4 only proposed amendment to page 31.

5 THE COURT: The proposed amendment at page 31,
6 before or after the caption "Expert Witness Testimony"?

7 MR. TUCKER: We propose before, Your Honor.

8 THE COURT: All right. So right before, is that
9 correct?

10 MR. TUCKER: Correct, Your Honor.

11 THE COURT: A new section captioned "Immunity,"
12 which would read as follows: "You have heard testimony from a
13 witness who received a grant of immunity from the government.
14 You are instructed that the government is entitled to call, as
15 a witness, a person who has been granted immunity."

16 "You should consider testimony given under a grant
17 of immunity with greater care and caution than the testimony
18 of an ordinary witness. You should consider whether testimony
19 under a grant of immunity has been affected by the witness'
20 own interest in the outcome of the case or by prejudice
21 against the defendant."

22 "On the other hand, you should also consider that an
23 immunized witness can be prosecuted for perjury or making a
24 false statement under oath. After considering these things,
25 you may give testimony given under a grant of immunity such

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1 weight as you feel it deserves."

2 This is agreed to by both sides?

3 MR. TUCKER: Yes, Your Honor.

4 MR. SOSINSKY: Yes.

5 THE COURT: All right. We will insert that. I'm
6 going to label this for our purposes today as "Rider A," and
7 I'm going to give this -- it will be on page 31, right above
8 the caption -- those of you taking notes? Yes?

9 LAW CLERK: All right. Got it, Judge.

10 THE COURT: "Rider A," right before "Expert Witness
11 Testimony." And that will go in.

12 Here you go. Thanks, Matt.

13 Okay. Anything else on 31?

14 MR. TUCKER: Not from the government, Your Honor.

15 MR. SOSINSKY: No.

16 THE COURT: Thirty-two?

17 MR. TUCKER: No, Your Honor.

18 MR. SOSINSKY: No.

19 THE COURT: Thirty-three?

20 MR. TUCKER: No, Your Honor.

21 MR. SOSINSKY: No.

22 THE COURT: Thirty-four?

23 MR. TUCKER: No, Your Honor.

24 MR. SOSINSKY: No, sir.

25 THE COURT: Thirty-five?

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1 MR. TUCKER: Your Honor, with respect to page 35,
2 two points. The proceedings section headed "Impeach by Prior
3 Inconsistent Statements," obviously accurately states the law.
4 I think this might be an opportune time in the charge to
5 distinguish the impeachment by prior inconsistent statements
6 from Government's Exhibit 1100, which is that excerpt from
7 Nasreem Ajmal's prior grand jury testimony which as Your Honor
8 has ruled is admissible as affirmative or substantive
9 evidence.

10 THE COURT: Do you have a language proposed to hand
11 up to the Court?

12 MR. TUCKER: It's just two sentences, Your Honor. I
13 can write it up by hand. I have it on my computer.

14 THE COURT: Why don't write it up by hand and show
15 it to your adversary and see if he agrees.

16 MR. TUCKER: I have shown it to my adversary and he
17 agrees, but I will write it up on a piece of paper.

18 THE COURT: After you write it up, show it to him
19 again. Make sure he agrees to what you have written up.

20 MR. TUCKER: Yes, Your Honor. This is very, very
21 short.

22 THE COURT: I'm sure it is. Print, don't write,
23 print.

24 MR. TUCKER: Your Honor, I actually don't remember
25 how to write in cursive.

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1 THE COURT: Good.

2 MR. TUCKER: (Complies.) (Shows document to Mr.
3 Sosinsky.)

4 Your Honor, I have shown the proposed addition which
5 would go at the end of that section headed, "Impeachment by
6 Prior Inconsistent Statements."

7 THE COURT: What page are we talking about?

8 MR. TUCKER: Page 35, Your Honor.

9 THE COURT: So right before the section captioned,"
10 Interviews of Witnesses"?

11 MR. TUCKER: Precisely, Your Honor.

12 THE COURT: Why don't you label it "Rider B," hand
13 it up to Mr. Jackson.

14 MR. TUCKER: (Complies.)

15 THE COURT: Okay. "Rider B," proposed language
16 reads as follows -- to be inserted at page 35 -- "The
17 exception to this rule is Government Exhibit 1100, which
18 contains excerpts from Nasreem Ajmal's grand jury testimony.
19 I instruct you that you may consider that testimony as
20 affirmative evidence in your deliberations."

21 Have I read that accurately, counsel?

22 MR. TUCKER: Yes, Your Honor.

23 MR. SOSINSKY: Yes, sir.

24 THE COURT: All right. "Rider B" will be
25 inserted -- hello --

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1 LAW CLERK: Thank you, Judge.

2 THE COURT: -- at page 35, as agreed upon.

3 Anything else on 35?

4 MR. TUCKER: That's for the government, Your Honor,
5 but I believe defense counsel has something that the
6 government does not object to.

7 THE COURT: Okay.

8 MR. SOSINSKY: And Judge, so at the very same place,
9 I guess that means after --

10 THE COURT: After "Rider B"?

11 MR. SOSINSKY: After "Rider B," we're asking -- and
12 I can hand up a copy to the Court of what's already been
13 provided to counsel for the government our request to charge
14 entitled, "Defendant's Post-arrest Statement."

15 THE COURT: Well, why don't you hand it up to --
16 have you shown it to your adversaries?

17 MR. TUCKER: Yes, sir.

18 MR. SOSINSKY: Yes, sir.

19 THE COURT: Have they agreed to it?

20 MR. SOSINSKY: Yes, sir.

21 MR. TUCKER: (Nods head affirmatively.)

22 THE COURT: All right. We'll make this "Rider C."
23 And I'll just read it out loud, make sure we're on the same
24 page.

25 "Rider C" would read as follows -- would you want a

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1 separate caption, "Defendant's Post-arrest Statements," or no?

2 MR. SOSINSKY: Please, sir.

3 THE COURT: Okay. "Rider C," including the caption,
4 "Defendant's Post-arrest Statements, reads as follows: "You
5 have heard evidence of certain statements allegedly made by
6 the defendant to members of law enforcement following his
7 arrest. You must decide whether the defendant, in fact, made
8 such statements and what weight if any you believe such
9 statements deserve."

10 "In making this determination, you should consider
11 all matters in evidence concerning the defendant and the
12 circumstances under which the statements were said to" -- you
13 say, "The made." Do you want to say, "To have been made," or
14 I'll take your language. "Were said to be made"?

15 Okay. You agree on that language?

16 MR. TUCKER: Your Honor, the government has no
17 objection to that language.

18 MR. SOSINSKY: I guess that means they agree. Yes.

19 THE COURT: All right. "Rider C" is in at page 35,
20 at the indicated position after "Rider B." Here you go.

21 Anything else on 35?

22 MR. TUCKER: That's all from the government, Your
23 Honor.

24 MR. SOSINSKY: That's all.

25 THE COURT: Thirty-six?

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1 MR. TUCKER: Nothing, Your Honor.

2 MR. SOSINSKY: No, sir.

3 THE COURT: Thirty-seven?

4 MR. TUCKER: No, Your Honor.

5 MR. SOSINSKY: No.

6 THE COURT: Thirty-eight?

7 MR. TUCKER: No, Your Honor.

8 MR. SOSINSKY: No.

9 THE COURT: Thirty-nine?

10 MR. TUCKER: No, Your Honor.

11 MR. SOSINSKY: No.

12 THE COURT: Forty?

13 MR. TUCKER: No, Your Honor.

14 MR. SOSINSKY: No.

15 THE COURT: Forty-one?

16 MR. TUCKER: No, Your Honor.

17 MR. SOSINSKY: No.

18 THE COURT: Forty-two?

19 MR. TUCKER: No, Your Honor.

20 MR. SOSINSKY: No.

21 THE COURT: Forty-three?

22 MR. TUCKER: No, Your Honor.

23 MR. SOSINSKY: No.

24 THE COURT: Forty-four?

25 MR. TUCKER: Your Honor, with respect to page 44 --

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1 THE COURT: Yes, sir?

2 MR. TUCKER: The section headed, "Count 1, First
3 Element, Unlawful Agreement."

4 THE COURT: Yes, sir?

5 MR. TUCKER: The government proposes to include two
6 lines from its prior proposed charge. I have a proposed
7 rider.

8 The sum and substance of it, Judge, is to capture
9 the idea that there is a distinction between conspiracy and an
10 inchoate offense.

11 THE COURT: Have you shown that to your adversary?

12 MR. TUCKER: I have, Your Honor.

13 THE COURT: Does he agree to it?

14 MR. TUCKER: I believe he does -- oh, I apologize.
15 He does not. He objects to this one. I apologize.

16 THE COURT: All right. Why don't you hand it up.
17 Let me take a look at it.

18 MR. TUCKER: Yes, Your Honor. (Complies.)

19 THE COURT: The proposed language in what would be
20 Rider D? Yes?

21 LAW CLERK: Yes.

22 THE COURT: All right. "Rider D," as in "David,"
23 would be if it goes in as follows: A conspiracy to commit a
24 crime is an offense that is distinct from the underlying crime
25 the conspirators agreed to commit. Indeed, the crime that was

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1 the object of the conspiracy need not be committed for a
2 person to be guilty of conspiracy to commit that offense."

3 Let me first ask the proponent of the language from
4 whence does it hail? Do you have a reference to Sand? Do you
5 have a reference to reported decisions? Or is this swaying
6 like Athena from the head of Zeus or vice-versa?

7 MR. TUCKER: Your Honor, this language comes from
8 Judge Gleeson's charge in *United States versus Kaziu*,
9 K-A-Z-I-U, 09 CR 660, an EDNY, 2011, as well as *United States*
10 *versus DeFreitas*, from Judge Irizarry, 07 CR 543, EDNY, 2010.

11 THE COURT: Would you read that back, Madam
12 Reporter, so I have the cites?

13 (Record read.)

14 THE COURT: And that was Irizarry, right?

15 MR. TUCKER: I believe -- it was Judge Irizarry. I
16 believe it was actually 2010, Your Honor.

17 THE COURT: Well, that's why I asked for cites.
18 2010?

19 MR. TUCKER: Yes, Your Honor.

20 THE COURT: 2010, Irizarry. Okay. Any Circuit
21 authority?

22 MR. TUCKER: No, Your Honor, not offhand.

23 THE COURT: Okay. What is your response to the
24 language, sir, and to the cited authority by my learned
25 brother and sister?

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1 MR. SOSINSKY: I would cite to Judge Kuntz's
2 instruction in this case and --

3 THE COURT: You know who's going to win that one.

4 MR. SOSINSKY: I don't.

5 THE COURT: Let's see, on a criminal law case,
6 Gleeson, Irizarry versus Judge Kuntz? Well, I'm going to put
7 in "Rider D."

8 MR. TUCKER: Thank you.

9 THE COURT: Okay. Judge Kuntz will have to take a
10 back seat for now. Here you go.

11 LAW CLERK: Thank you, Judge.

12 THE COURT: "Rider D" is in. That goes in where?

13 MR. TUCKER: Your Honor, the government proposes to
14 put it in on page 44, after the heading, "Count 1, first
15 Element," at the conclusion of that first paragraph.

16 THE COURT: All right. So after the paragraph that
17 begins, "The First Element," and it ends in the indictment, we
18 insert "Rider D," as in "David."

19 MR. TUCKER: Exactly, Your Honor.

20 THE COURT: All right. I'm going to put it in and
21 note the objection of defense counsel, citing the semi-learned
22 Judge Kuntz.

23 Okay. What else do we have?

24 MR. TUCKER: That's all for page 44 for the
25 government, Your Honor.

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1 THE COURT: Anything else on 44?

2 MR. SOSINSKY: No.

3 THE COURT: Forty-five?

4 MR. TUCKER: Nothing, Your Honor.

5 MR. SOSINSKY: No.

6 THE COURT: Forty-six?

7 MR. TUCKER: No, Your Honor.

8 MR. SOSINSKY: No.

9 THE COURT: Forty-seven?

10 MR. TUCKER: No, Your Honor.

11 MR. SOSINSKY: No.

12 THE COURT: Forty-eight?

13 MR. TUCKER: No, Your Honor.

14 MR. SOSINSKY: No.

15 THE COURT: Forty-nine?

16 MR. TUCKER: No, Your Honor.

17 MR. SOSINSKY: No.

18 THE COURT: Fifty?

19 MR. TUCKER: No, Your Honor.

20 MR. SOSINSKY: No.

21 THE COURT: Fifty-one?

22 MR. TUCKER: No, Your Honor.

23 MR. SOSINSKY: No.

24 THE COURT: Fifty-two?

25 MR. TUCKER: No, Your Honor.

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1 MR. SOSINSKY: No.

2 THE COURT: Fifty-three?

3 MR. TUCKER: Your Honor, with respect to page 53,
4 the parties jointly propose striking the word "frequently."

5 THE COURT: I'm sorry. Where -- what, at the top of
6 the page?

7 MR. TUCKER: Correct.

8 THE COURT: The first word.

9 MR. TUCKER: Very first word, Your Honor.

10 THE COURT: You both want it out?

11 MR. TUCKER: Yes, Your Honor.

12 THE COURT: It's gone.

13 MR. TUCKER: That's all for the government on page
14 53.

15 THE COURT: Anything else, defense counsel?

16 MR. SOSINSKY: No.

17 THE COURT: Fifty-four?

18 MR. TUCKER: No, Your Honor.

19 MR. SOSINSKY: No.

20 THE COURT: Fifty-five?

21 MR. TUCKER: No, Your Honor.

22 MR. SOSINSKY: No.

23 THE COURT: Fifty-six?

24 MR. TUCKER: No, Your Honor.

25 MR. SOSINSKY: No.

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1 THE COURT: Fifty-seven?

2 MR. TUCKER: Your Honor, with respect to page 57,
3 the government proposes adding at the conclusion of the first
4 paragraph where that ends, "The Deputy of Homeland Security"
5 --

6 THE COURT: Yes, sir?

7 MR. TUCKER: "Or aided and abetted another person in
8 doing the same."

9 THE COURT: What's the basis of that proposed
10 addition?

11 MR. TUCKER: Your Honor, obviously, as the Court
12 knows at this point, the government's theory is that the
13 defendant aided and abetted the fraud that's charged in Count
14 2.

15 The Court has already incorporated this aiding and
16 abetting concept with respect to the first element of this
17 count. In the spirit of continuity and given that this third
18 element also relates to actions by the defendant, we request
19 that the aided and abetted language be added there, as well.

20 THE COURT: Do you have any judicial authority for
21 that proposed change in language?

22 MR. TUCKER: I don't, Your Honor, beyond Your
23 Honor's own instruction about aiding and abetting.

24 THE COURT: Well, I told you the regard I hold Judge
25 Kuntz in.

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1 I'll ask the defense counsel, do you have any view
2 with respect to the proposed change?

3 MR. SOSINSKY: We object to it with would note that
4 a few moments later, you will be giving a very detailed
5 instruction on aiding and abetting theory. That's at the
6 bottom of page 57, which covers --

7 THE COURT: I will sustain the objection. I'm not
8 going to put in that language at that point.

9 What else do you have on page 57?

10 MR. TUCKER: That's all on page 57, Your Honor.

11 (Pause in proceedings.)

12 THE COURT: Sir?

13 MR. SOSINSKY: I'm sorry, Judge.

14 THE COURT: Anything else on 57?

15 MR. SOSINSKY: No. I apologize.

16 THE COURT: Fifty-eight?

17 MR. TUCKER: Nothing on page 58, Your Honor.

18 MR. SOSINSKY: No.

19 THE COURT: Fifty-nine?

20 MR. TUCKER: No, your Honor.

21 MR. SOSINSKY: No.

22 THE COURT: Sixty?

23 MR. TUCKER: No, Your Honor.

24 MR. SOSINSKY: No.

25 THE COURT: Sixty-one?

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1 MR. TUCKER: No, Your Honor.

2 MR. SOSINSKY: No.

3 THE COURT: Sixty-two?

4 MR. TUCKER: No, Your Honor.

5 MR. SOSINSKY: No.

6 THE COURT: Sixty-three?

7 MR. TUCKER: No, Your Honor.

8 MR. SOSINSKY: No.

9 THE COURT: Sixty-four?

10 MR. TUCKER: Your Honor, with respect to page 64,
11 the parties would propose to add this language in the first
12 complete paragraph on that page, in the last sentence -- so
13 the sentence I'm referring to is, "A statement is a threat if
14 it was made under such circumstances" --

15 THE COURT: I'm sorry. Where are you on page 64?

16 MR. TUCKER: The first complete paragraph.

17 THE COURT: Right.

18 MR. TUCKER: Second sentence begins, "A statement."

19 THE COURT: Yes?

20 MR. TUCKER: "A statement is a threat if it was made
21 under such circumstances that a reasonable person hearing or
22 reading the statement" -- and this is, Your Honor, where we
23 propose the additional language -- it would be, "Reading the
24 statement, who is familiar with the context of the threat
25 would understand it as a serious expression of intent to

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1 inflict bodily harm."

2 THE COURT: What is the judicial basis for that
3 suggested change?

4 MR. TUCKER: Your Honor, the basis for that addition
5 is the Second Circuit's decision in United States versus -- I
6 believe it's pronounced Sovie, S-O-V-I-E. That's 122 Federal
7 Third, 122, Second Circuit, 1997.

8 THE COURT: Does that quote the language?

9 MR. TUCKER: Your Honor, I don't have the case in
10 front of me, but I was the one who prepared this charge and
11 I'm mindful of the Circuit's guidance with respect to the true
12 threat element. I believe that it is, Your Honor.

13 THE COURT: Okay. Can you pull it up your computer,
14 take a look?

15 MR. TUCKER: Not here, Your Honor. I'm happy to do
16 that --

17 THE COURT: Can you get the case, Matt?

18 LAW CLERK: Yes.

19 THE COURT: What's the cite again? My law clerk
20 will pull it up, see if it tracks the language of the opinion.

21 You have it? What does the language say? You can
22 ready it out loud.

23 LAW CLERK: "The test is" --

24 THE COURT: Louder and slower.

25 LAW CLERK: "The test is an objective one, namely,

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1 whether an ordinary reasonable recipient who is familiar with
2 the context of the threat would interpret it as a threat of
3 injury."

4 THE COURT: Is that language you want?

5 MR. TUCKER: Yes, Your Honor, "Who is familiar with
6 the context of the threat."

7 THE COURT: That's the language that you just read,
8 Ms. Choe?

9 LAW CLERK: Yes.

10 THE COURT: All right. We will import the language
11 from the Second Circuit? I take it you don't have any
12 objection to the Second Circuit authority?

13 MR. SOSINSKY: Correct.

14 THE COURT: So we're going to import that language
15 on page 64, and we'll make that --

16 Why don't you read it again, Ms. Choe, just out
17 loud, so the record is clear?

18 And we're going to put this? In 64, after the
19 sentence -- right before the sentence begins, "A statement is
20 a threat,' is that correct?

21 MR. TUCKER: I would insert it within that sentence,
22 Your Honor.

23 THE COURT: All right. Go ahead. What is your
24 suggestion?

25 MR. TUCKER: So I'll read the sentence in its

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1 entirety with my proposed addition.

2 THE COURT: Well, you can do that.

3 MR. TUCKER: "A statement is a threat if it was made
4 under such circumstances that a reasonable person hearing or
5 reading the statement, who is familiar" --

6 THE COURT: All right. Hang on.

7 MR. TUCKER: "Who is familiar."

8 THE COURT: "Who is familiar."

9 MR. TUCKER: "With the context."

10 THE COURT: With the context.

11 MR. TUCKER: "Of the threat."

12 THE COURT: Of the threat. That's your proposed
13 addition?

14 MR. TUCKER: That's correct, Your Honor.

15 THE COURT: What does the Circuit say?

16 LAW CLERK: "The test is an objective one, namely
17 whether an ordinary reasonable recipient who is familiar with
18 the context of the threat would interpret it as a threat of
19 injury."

20 THE COURT: "Who is familiar with the context of the
21 threat would interpret it as" --

22 THE CLERK: "A threat of injury."

23 THE COURT: I can't quite hear you.

24 THE CLERK: "A threat of injury."

25 THE COURT: "Would interpret it as a " --

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1 LAW CLERK: "Threat."

2 THE COURT: "Threat."

3 LAW CLERK: "Of injury."

4 THE COURT: "Of injury."

5 That is what we will put in our charge. No
6 disrespect to you, sir, but I love the Circuit.

7 MR. TUCKER: The, that's fine, Your Honor. If
8 anything, I think the original language is a slightly higher
9 burden, so I'm fine with the change.

10 THE COURT: I just like to make my friends on the
11 17th floor happy by slavishly obedience to their direction.

12 What else do we have?

13 MR. TUCKER: That's all for page 64.

14 MR. SOSINSKY: Nothing more.

15 THE COURT: Sixty-five?

16 MR. TUCKER: No, Your Honor.

17 MR. SOSINSKY: No.

18 THE COURT: Sixty-six?

19 MR. TUCKER: On page 66, Your Honor, and the
20 paragraph that begins on page 66, it begins, "To establish
21 this element," I think that there may have been an in
22 advertent omission of the introductory sentence, indicating --

23 THE COURT: Both sentences on 66, begins, "To
24 establish this element." So you're talking about the
25 paragraph --

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1 MR. TUCKER: You're completely correct, Your Honor.
2 I'm referring to the second time that happens on page 66.

3 THE COURT: "To establish this element."

4 MR. TUCKER: "The government must prove."

5 THE COURT: Right.

6 MR. TUCKER: So I think that we would propose an
7 introductory sentence to indicate that the Court is
8 transitioning from the second to third element, and I have a
9 handwritten rider if you want, Your Honor.

10 THE COURT: What is your suggested language?

11 MR. TUCKER: The third element the government must
12 establish beyond a reasonable doubt.

13 THE COURT: Okay. Hang on. "The third element" --
14 I feel like I'm in a Bruce Willis movie -- "The third
15 element" -- go ahead. "The third element" --

16 MR. TUCKER: "The Government must establish."

17 MR. SOSINSKY: I think the word should be "proved,"
18 because that's the language Your Honor uses throughout the
19 rest of the charge.

20 MR. TUCKER: No objection.

21 THE COURT: "The third element the government
22 must" --

23 MR. TUCKER: "Prove."

24 THE COURT: "Prove beyond a reasonable doubt."

25 MR. TUCKER: "Is that the defendant."

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1 THE COURT: Hang on.

2 MR. TUCKER: I'm sorry, Your Honor.

3 THE COURT: "Beyond a reasonable doubt."

4 Go ahead.

5 MR. TUCKER: "Is that the defendant."

6 THE COURT: "Is that the defendant," and then it
7 goes on as written?

8 MR. TUCKER: No, Your Honor.

9 THE COURT: Okay.

10 MR. TUCKER: It concludes, "Transmitted the threat
11 knowingly and intentionally."

12 THE COURT: All right. Why don't you hand up your
13 proposed language? You're going to show it to the other side?
14 Show it to him. See if he agrees to it.

15 MR. TUCKER: (Complies.)

16 May I approach, Your Honor?

17 THE COURT: Yes, of course.

18 Is that agreed to?

19 MR. TUCKER: Yes, Your Honor.

20 MR. SOSINSKY: Yes.

21 THE COURT: All right. So we're going to make this
22 "Rider E," as in "Edward," is that right?

23 LAW CLERK: Yes, Judge.

24 THE COURT: Okay. "Rider E," page 66. Here you go.

25 Anything else on 66?

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1 MR. TUCKER: No, Your Honor.

2 MR. SOSINSKY: No.

3 THE COURT: Sixty-seven?

4 MR. TUCKER: No, Your Honor.

5 MR. SOSINSKY: No.

6 THE COURT: Sixty-eight?

7 MR. TUCKER: No, Your Honor.

8 MR. SOSINSKY: No.

9 THE COURT: Sixty-nine?

10 MR. TUCKER: No, Your Honor.

11 MR. SOSINSKY: No.

12 THE COURT: Seventy?

13 MR. TUCKER: No, Your Honor.

14 MR. SOSINSKY: No.

15 THE COURT: And 71?

16 MR. TUCKER: No, Your Honor.

17 MR. SOSINSKY: No.

18 THE COURT: Okay. I think everyone is comfortable
19 with the date of July 1st, since it is July 1st or I can delay
20 it, date it July 2nd? You're more comfortable with that?

21 MR. TUCKER: Whatever Your Honor believes, whenever
22 Your Honor administers the charge, probably.

23 THE COURT: When do you think we're going to do
24 that?

25 MR. SOSINSKY: I think I would be more comfortable

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1 if you said right now July 3rd, because it would forecast
2 perhaps better when it would go to the jury.

3 THE COURT: I was elliptically trying to absolutely
4 address that question.

5 Okay. We'll put it in as July 3rd. I'm happy to
6 change it to July 1st or 2nd as circumstances allow.

7 All right. Let me give this back to you, my
8 colleague here. You've got your master. Hang on to that.

9 All right. Do you have any anything else before
10 we -- I'm sorry. We've got the verdict sheet. Have you had a
11 chance to look at the verdict sheet?

12 MR. TUCKER: We have, Your Honor.

13 THE COURT: Any objection?

14 MR. TUCKER: Not from the government, Your Honor.

15 THE COURT: Any objection? Defense, take a look at
16 it.

17 MR. SOSINSKY: (Perusing document.)

18 (Discussion off the record.)

19 MR. SOSINSKY: No objection to Court Exhibit 6.

20 THE COURT: Thank you. All right.

21 MR. TUCKER: Yes, Your Honor.

22 (Pause in proceedings.)

23 THE COURT: Before we call the jury in, but on the
24 record, I want to note my ruling that I am admitting into
25 evidence the Defendant's Exhibit D, which is a one, two,

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1 three -- four-page document in the language of --

2 MR. TUCKER: It's either Punjabi or Urdu.

3 THE COURT: Punjabi or Urdu. And tomorrow, I will
4 receive from counsel an English translation of the language
5 contained in Exhibit D, and I will attach that as part of
6 Exhibit D to the exhibit. But it is admitted in evidence.
7 Okay? I just wanted to do that before the jury comes in. It
8 will be part of the record. Okay?

9 MR. TUCKER: Yes, Your Honor.

10 THE COURT: All right. Mr. Jackson, do you have the
11 original of this?

12 THE CLERK: Yes, I have it signed inside.

13 THE COURT: Okay.

14 MR. SOSINSKY: Should I get the witness while we're
15 doing this?

16 THE COURT: Why don't we let the jury in and you can
17 call the witness. I assume the witness is available?

18 MR. SOSINSKY: Should be outside.

19 THE COURT: You want to check and see? Is he there.

20 MR. SOSINSKY: Yes, sir.

21 THE COURT: Okay. Why don't you go get the jury.

22 MR. SOSINSKY: Judge, we're going to be utilizing
23 one of the interpreters.

24 THE COURT: Okay.

25 THE CLERK: All rise.

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1 (Jury enters.)

2 THE COURT: Again, thank you for your patience,
3 ladies and gentlemen of jury. You see the Candy Man has
4 struck again. Please be seated.

5 We're going to continue with the defendant's case.

6 I have agreed to admit and I'm admitting into
7 evidence a document, which you will see has been marked as
8 Defendant's Exhibit D for identification. It's a map with
9 some writings in the language of Urdu, we think, or Punjabi,
10 we think. And within the next 24 hours -- because all
11 proceedings in our courts have to be in English -- we're going
12 to have the English translation of this four-page document,
13 which I'm going to ask Mr. Jackson to put on the Elmo right
14 now, so that you can see what it looks like in the original.

15 You've got the original there?

16 And this document is -- you're going to get an
17 English translation, but it's got a little bit of a map to it,
18 and you you'll see it, and you'll do with it whatever is
19 appropriate. You'll get the translation tomorrow, because
20 it's being translated even as we speak.

21 But I have admitted this document on the defendant's
22 case. It Defendant's D, then we will have a live witness, as
23 opposed to more reading from transcripts.

24 (Defendant's Exhibit D was received in evidence.)

25

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1 (Exhibit published to the jury.)

2 THE COURT: Okay? So this the original of the
3 Defendant's D, which the court is admitting into evidence.
4 It's a four-page document, and as you will see, it is in a
5 language other than English. So you will get the translation
6 of this that the parties are preparing and will have attached,
7 and you'll get to see that tomorrow.

8 But why don't you flip the pages, Mr. Jackson. It's
9 page one, page two, page three. And page four. All right.

10 And Mr. Sosinsky, would you just briefly describe
11 what this document is? It's on your case, what it is?

12 MR. SOSINSKY: Should I stand.

13 THE COURT: No, you can sit there and describe it.
14 We'll call the witness. Just so there's no mystery about it,
15 what it purports to be.

16 MR. SOSINSKY: It purports to be -- certainly, the
17 front page, the first page purports to be a map not drawn to
18 scale or diagram not drawn to scale of particular location
19 that the jury has heard testimony about, to wit: The scene of
20 the shootings on February 25th, 2013, with particular
21 locations, including where --

22 I don't know what the Court wants me to go on to
23 state.

24 THE COURT: You know, just you know the place we're
25 talking about, so --

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1 MR. SOSINSKY: Okay.

2 THE COURT: That's all you need to say and we'll get
3 the English for you tomorrow, and you'll get to see it. It's
4 in evidence.

5 Okay. Please call your witness.

6 MR. SOSINSKY: Yes, Judge. Defense calls Manzoor
7 Ahmed.

8 THE COURT: We're going to be using a translator for
9 this witness.

10 You'll get him in?

11 (Witness enters.)

12 THE CLERK: Let me know when he reaches the top of
13 that stand and raise his right hand.

14

15 MANZOOR AHMED,

16 called by the Defense, having been first duly sworn,
17 was examined and testified as follows through the interpreter:

18 THE WITNESS: With the grace of God, yes.

19 THE COURT: Is that yes?

20 THE INTERPRETER: Yes.

21 THE COURT: Good. Have a seat.

22 Now, Mr. Interpreter, you have been previously sworn
23 in this case, correct?

24 THE INTERPRETER: I am, Your Honor.

25 THE COURT: Okay. Just so the record is clear,

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1 would you state your name and since you're the one the jury
2 will be hearing, I will want you to pull that microphone
3 towards you and move that water pitcher out of the way, so
4 that the jury can see the witness and observe his demeanor,
5 but they can hear you. That's the way we're going to do this,
6 as we did with the other witnesses who used an interpreter.
7 Okay?

8 So we're clear on this, jurors, you can see the
9 witness, but they want to make sure that you can hear the
10 interpreter.

11 Okay. Having said that, what is your name, sir?

12 THE WITNESS: Manzoor Ahmed.

13 THE COURT: Would you spell your name, please.

14 THE WITNESS: I am absolutely illiterate. I do not
15 know how to write.

16 THE COURT: The question is, can you spell your
17 name? And I'm not asking if you know how to write. Can you
18 spell your name?

19 THE WITNESS: Yes, I can write it.

20 THE COURT: You don't have to write it. You just
21 have to state it out loud.

22 THE WITNESS: Yes, I can.

23 THE COURT: Please do so.

24 THE WITNESS: You want me to write it out?

25 THE COURT: No, I want you to say it out loud.

Proceedings

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1 THE WITNESS: Manzoor Ahmed.

2 THE COURT: Spell it.

3 THE WITNESS: No, I cannot.

4 THE COURT: You don't know how to spell your name?

5 THE WITNESS: No, I do not know.

6 THE COURT: Your witness.

7 MR. SOSINSKY: Judge, can the witness -- well, let
8 me ask Mr. Ahmed. Can you write your name out in your
9 native --

10 THE COURT: He said he's illiterate. He can't
11 write. He's already said that. He says he can't write. He
12 can't spell it.

13 MR. SOSINSKY: I think he said he can write it. He
14 can't give you the English spelling.

15 THE COURT: I didn't ask for the English spelling.
16 I asked him to state his name and to spell it and he said he
17 couldn't do it.

18 Is that what he told you, Mr. Translator?

19 THE INTERPRETER: He said he cannot spell it in
20 English.

21 THE COURT: Can he spell it --

22 THE INTERPRETER: He's illiterate otherwise.

23 THE COURT: Can he spell it in his native language?

24 THE WITNESS: Yes.

25 THE COURT: All right. Spell it in your native

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1 language and you're the translator. Translate it.

2 THE WITNESS: Manzoor Ahmed.

3 THE COURT: How is that spelled, Mr. Translator?

4 THE WITNESS: You mean to say the alphabets?

5 THE COURT: Yes.

6 THE WITNESS: A, B, C, D, like that?

7 THE COURT: If that's how you spell your name.

8 What did he say.

9 THE WITNESS: Manzoor Ahmed.

10 THE COURT: That's it?

11 THE WITNESS: Yes.

12 MS. HECTOR: Your Honor --

13 THE COURT: No. Your witness. Go right ahead.

14 DIRECT EXAMINATION

15 BY MR. SOSINSKY:

16 Q How old are you, sir?

17 A My age is 57, 56.

18 Q And where were you born?

19 A Chiryawala.

20 Q That is in Pakistan?

21 A Yes, it's in Pakistan.

22 Q Are you married?

23 A Yes, I'm married.

24 Q And how long have you been married, sir?

25 A I've been married for 36 or 37 years now.

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1 Q Do you have any children?

2 A Yes.

3 Q How many children do you have?

4 A Four.

5 Q Do you have any grandchildren?

6 A Yes.

7 Q How long have you lived in Chiryawala, Pakistan?

8 A I was born in Chiryawala.

9 Q And have you lived all your life in Chiryawala or was
10 there some time period when you weren't living in Pakistan?

11 A I have lived my entire life in Chiryawala, except for two
12 or three years when I went out.

13 Q And where did you live during that time period?

14 A To Saudi.

15 THE COURT: To where?

16 THE WITNESS: To Saudi.

17 BY MR. SOSINSKY:

18 Q Saudi Arabia, sir?

19 A Yes.

20 Q Do you work, sir?

21 A Yes.

22 Q And what kind of work do you do?

23 A I was working as a laborer out there.

24 Q Are you describing what you did in Saudi Arabia?

25 A I worked there as a laborer.

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1 Q Okay. Presently, do you work?

2 A Yes.

3 Q And can tell us what kind of work you do?

4 A Right now, I drive a vehicle.

5 Q A vehicle?

6 A Yes.

7 Q What kind of vehicle do you drive?

8 A Coaster type.

9 Q Is that a Mazda Coaster? Are you describing the type of
10 vehicle that you drive?

11 A Yes. Yes. Coaster type.

12 Q Okay. And who do you drive the Coaster for, sir?

13 A For how long I've been driving it?

14 Q No. What do you -- for what purpose do you drive that
15 vehicle?

16 A I take students in that vehicle.

17 Q Is that a private van or a public van?

18 A It's a private van.

19 THE COURT: Who owns it?

20 THE WITNESS: Bramerz is the owner.

21 THE COURT: Who.

22 THE WITNESS: There is a village by the name of
23 Bramerz and the person is a resident of that village, from
24 Bramerz.

25 THE COURT: So he works -- the vehicle is owned by

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1 an individual human being?

2 THE WITNESS: Yes.

3 THE COURT: Who is his boss?

4 THE WITNESS: Yes. He's my boss.

5 THE COURT: Okay. Go ahead.

6 BY MR. SOSINSKY:

7 Q How long have you been driving this the private vehicle,
8 sir?

9 A This vehicle that I'm driving now?

10 Q Yes.

11 A It's been three or four years that I have been driving it
12 now.

13 Q And before that, what did you do, sir?

14 A Before this, I used to drive a vehicle and if I couldn't
15 drive a vehicle, then I used to work on my land.

16 THE COURT: Used to work on what? I'm sorry?

17 THE WITNESS: Work on my land.

18 MR. SOSINSKY: Work on his land, I think he said.

19 THE COURT: Work on his land. All right.

20 Go ahead.

21 BY MR. SOSINSKY:

22 Q You mentioned that you drive students in your van, sir.
23 Are there particular schools or colleges that you drive the
24 students to and from in connection with your work?

25 A There are some government schools and there are some

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1 civil schools that I take children to.

2 Q Okay. Can you tell us the names of the schools or
3 colleges that you drive the students to and from? Please name
4 them.

5 A Yes, I can.

6 Q Go ahead.

7 A University College.

8 Q Are there any other schools?

9 A Yes.

10 Q Please list them for us.

11 A Read Finishing, yes. The Learning, yes. Inside, yes.
12 Royal, yes. APS, yes. FG, yes. These are the schools I take
13 children to.

14 Q Okay. Now, the schools that you just listed for us,
15 where are they located, sir?

16 A They're in the town of Bhimber.

17 Q That is B-H-I-M-B-E-R?

18 MR. SOSINSKY: You don't have to spell that for him.
19 That was for the record.

20 THE COURT: Actually, his testimony is for the
21 record, so he does have to spell it.

22 Go ahead.

23 BY MR. SOSINSKY:

24 Q How far from Chiryawala is the town of Bhimber that you
25 say you drive the students to and from?

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1 A It's about 14 or 15 kilometers.

2 Q Can you tell us what time do you pick up the students who
3 utilize your private vehicle to take them to school in the
4 morning?

5 A Yes, I can tell you.

6 Q When is it?

7 A I pick them up at seven in the morning.

8 Q And from where? Where do you pick them up from?

9 A From Chiryawala.

10 Q And how many stops are there in Chiryawala from which you
11 pick up the students and take them to the schools that you
12 listed for us?

13 A First stop is at Chiryawala.

14 Q Where is that?

15 A It is next to Murhad's house.

16 Q What is the second stop in Chiryawala?

17 A The second stop is at the Chiryawala Adda.

18 THE INTERPRETER: A-D-D-A.

19 BY MR. SOSINSKY:

20 Q Where is the third stop?

21 A There are children, they stand by the roadside all along,
22 and I keep picking them as I go by.

23 Q Okay. And is there another location where you also pick
24 up the students or children, as call them, in the morning and
25 take them to school? Anything other than what you've already

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1 told us?

2 A No, the two main places are at the Chiryawala stop and at
3 the Chiryawala Adda. That's it.

4 Q Okay. Now, after picking up the children or students in
5 the morning, what time do you drop them off at the various
6 schools?

7 A By around eight o'clock, I reach them to their schools.

8 Q Now, at the end of their school days, do you also pick up
9 those students from the schools to which you had taken them
10 earlier that morning?

11 A Yes, I did do that.

12 Q And what time do you begin to pick up the students from
13 the schools and colleges that you told us you drop them off
14 at?

15 A It's about two o'clock.

16 Q And in general, where do you go first when picking up
17 students in Bhimber before bringing them back to Chiryawala?

18 A First I pick up the children from the University College.

19 Q Then after that?

20 A Then there are other schools alongside on the road and I
21 pick them up from there.

22 Q And after you're finished picking up the remaining
23 students from the schools in Bhimber, where do you go?

24 A Then I go to Chiryawala.

25 Q Do you know someone named Mohammad Asghar?

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1 A Yes.

2 Q How did you know Mohammad Asghar?

3 A He's from my village.

4 Q Do you know someone named Rukhsana Kousar?

5 A Absolutely, I know her.

6 Q Have you been in the home of Mohammad Asghar?

7 A Yes, I go there sometimes when I have work.

8 Q Where do they live? Where does Mohammad Asghar live in
9 relation to your home you told us, in Chiryawala?

10 A They live very close to my house, a few small streets
11 away.

12 Q Do you know the children of Mohammad Asghar and Rukhsana
13 Kousar, sir?

14 A Yes, I know.

15 Q In the year 2012 and 2013 -- I should say years 2012 and
16 2013, were you driving Mohammad Asghar's daughter, Seemab
17 Asghar, in your private van, sir?

18 A Yes, I used to.

19 Q And had you been doing so for some period of time?

20 A Yes.

21 Q Can tell us approximately how many students or children
22 would you typically take on your route from Chiryawala to
23 Bhimber, to those schools, and from Bhimber back to
24 Chiryawala? How many students?

25 A Yes, I can.

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1 Q Tell us, please.

2 A About 45 to 50 that I used to carry.

3 Q Now, how would students or the students' families pay for
4 the transportation using your private van from Chiryawala to
5 Bhimber and back? How is that arranged?

6 A They're all children from my village.

7 Q And how would they arrange to pay for the transportation
8 that you provided to them, is what I'm asking.

9 A The children used to usually get the money themselves,
10 and if there were any that didn't, then we used to get in
11 touch with the parents.

12 Q I'm sorry. With the --

13 A Parents.

14 Q Parents? Okay.

15 How many days a week were the children transported
16 to and from the various schools and colleges that you told us
17 were in Bhimber? How many days a week?

18 A Except for Sunday, all other days, I used to be taking
19 the children.

20 Q I asked you earlier whether you knew Mohammad Asghar and
21 Rukhsana Kousar and their children. Let me ask you, do you
22 know Mohammad Akmal?

23 A Yes, absolutely, I know him.

24 Q Do you know someone name Mohammad Afzal, A-F-Z-A-L?

25 A Yes, I know him.

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1 Q Now, I'd like, Mr. Ahmed, to focus your attention on the
2 day of February 25th, 2013? Okay. Were you working on that
3 day?

4 A Yes.

5 Q Do you remember what day of the week it was?

6 A It was Monday.

7 Q So February 24th, 2013 would have been a Sunday, the day
8 before, correct?

9 A Yes.

10 Q And you don't work on Sundays? That's your day off,
11 correct?

12 A No, I don't.

13 Q Okay. So turning to February 25th, 2013, you told us was
14 a Monday. On that date, sir, did you pick up various
15 students, children, in Chiryawala, in the manner that you've
16 described your work?

17 A Yes. Yes. I did pick them up in the same way.

18 Q And on that date, February 25th, 2013, using your private
19 van, did you pick up Seemab Asghar in the village that
20 morning?

21 A Yes, I had taken her.

22 Q Did you pick up other students in Chiryawala that
23 morning, as well?

24 A Yes, I take them.

25 Q Which of the schools or colleges did Seemab Asghar get

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1 dropped off at, sir?

2 A University College.

3 Q And after picking up the students and children on
4 February 25th, 2013, did you drop them off on that day at the
5 various locations you told us about earlier?

6 A Yes.

7 Q Did there come a time towards the mid-afternoon on that
8 day when, as you have described you have done on other days,
9 you began to pick up the students --

10 MS. GANDY: Objection; leading.

11 MR. SOSINSKY: Withdrawn.

12 THE COURT: Why don't you try to ask him without
13 leading?

14 MR. SOSINSKY: Yes, sir.

15 BY MR. SOSINSKY:

16 Q Did you later that day began to pick up students at the
17 various schools and colleges that you've described?

18 A Yes.

19 THE COURT: It's still leading if it calls for a yes
20 or no answer. Why don't you say, "What did you do next? What
21 happened next? Explain." That way, you won't be leading.

22 Go ahead.

23 MR. SOSINSKY: Okay, Judge.

24 BY MR. SOSINSKY:

25 Q Please tell what you began to do in the afternoon on

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1 February 25th, 2013? What did you do?

2 A Nothing. I was waiting all day at Bhimber.

3 Q Okay. And what did you do thereafter?

4 A Then it was time to pick up the children and I picked
5 them up.

6 Q What time did you begin to pick up the children at the
7 various locations?

8 A It was two o'clock.

9 Q At some point, did you arrive at University College in
10 Bhimber?

11 MS. GANDY: Leading.

12 THE COURT: I beg your pardon. It's leading. What
13 happened next? Why don't you just ask him what happened next?

14 BY MR. SOSINSKY:

15 Q What happened next?

16 A Then I pick up the other children.

17 Q And what locations did you pick up the students on that
18 afternoon?

19 A University College, I picked them. Read Finishing, I
20 picked them up. The Learning, I picked them up from. From
21 Inside, RAPS, and Royal, and FG, yes.

22 Q After picking up the students at those locations, where
23 did you head off to.

24 A Then I came back to Chiryawala.

25 Q Let me ask you, was Seemab Asghar one of the students who

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1 you picked up at University College?

2 A Yes, she was there.

3 Q Did she get onto the van that you were driving on that
4 day, February 25th, 2013?

5 A Yes, she came with me in the same van.

6 Q Now, you said you headed back to Chiryawala that
7 afternoon. Can you tell us what happened next?

8 A After that, what happened was, there was somebody who
9 called me on the phone.

10 Q And where were you approximately when you received a call
11 on your phone? Where were you located at that moment?

12 A I was just leaving Bhimber at that time.

13 Q I'm sorry. Were leaving --

14 A I was getting out of Bhimber.

15 Q Okay. And tell us about that phone call? Did you answer
16 the call?

17 A Yes, I did.

18 (Continued on the next page.)

19

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21

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1 DIRECT EXAMINATION (continued)

2 BY MR. SOSINSKY:

3 Q And who was on the phone, who was calling you on your
4 phone that day?

5 A The SHO was there, he was the one who call me up.

6 Q You said the SHO?

7 A Yes, SHO.

8 Q What did you understand the SHO to be?

9 A He is the head of the precinct.

10 Q Is that a police officer of some sort?

11 A Yes, yes.

12 Q And what did the police officer, the SHO tell you during
13 this phone call?

14 A He told me that, "Get control of the children with you.
15 Don't let anybody stop your vehicle on the way, and I will be
16 waiting for you." When I reach there, he was waiting for me.

17 Q Did the SHO indicate anyone in particular that you should
18 not let anyone interfere with?

19 MS. HECTOR: Objection.

20 THE COURT: No, I'll overrule that objection.

21 A What?

22 Q Did the SHO say the name of any particular student that
23 was on your private van that day?

24 A Yes, yes.

25 Q Who did the SHO mention during the phone call you

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1 received as you were heading to Chiryawala that afternoon?

2 A Seemab, girl Seemab.

3 Q Did the police any saying other than the name Seemab and
4 asking you not to let anyone interfere with your bus until
5 they met you?

6 MS. HECTOR: Objection.

7 THE COURT: Overruled.

8 A Yes.

9 Q What else did they say?

10 A Don't hand over the girl to anybody. Even if somebody
11 asks for the girl, do not hand her over.

12 Q Now, you mentioned that the SHO at some point said that
13 he or they would meet you somewhere.

14 Where did they tell you that they would meet you?

15 A He told me that, "The stop that you have, there will be
16 two of my employees who will be standing out there. You can
17 hand over the girl to those employees."

18 Q Did there come a time when your private van arrived in
19 Chiryawala that afternoon?

20 A Yes.

21 Q And what time did your van arrive in Chiryawala that
22 afternoon?

23 A It was 3:15.

24 THE COURT: Do you wear a watch?

25 THE WITNESS: Yes, I have a mobile and I have the

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1 time in that, and I wear a watch as well.

2 THE COURT: Are you wearing a watch today?

3 THE WITNESS: No.

4 THE COURT: Go ahead.

5 BY MR. SOSINSKY:

6 Q You received a phone call on your cellphone that
7 afternoon, correct?

8 A Yes.

9 THE COURT: Do you have the same phone with you now?

10 THE WITNESS: Yes.

11 THE COURT: You have it here?

12 THE WITNESS: Which, the mobile?

13 THE COURT: Yes.

14 THE WITNESS: Right now?

15 THE COURT: Yes, right now.

16 THE WITNESS: No, right now, I don't have it.

17 THE COURT: Where is it?

18 THE WITNESS: I left it home.

19 BY MR. SOSINSKY:

20 Q Does it work in the United States?

21 A Who, me?

22 THE COURT: Does the phone work in the United
23 States?

24 THE WITNESS: No.

25 THE COURT: How do you know?

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1 THE WITNESS: I did not carry my mobile. I did not
2 bring it here.

3 THE COURT: Did you ever give your mobile to the
4 police?

5 THE WITNESS: No.

6 THE COURT: Did they ever ask you for your mobile?

7 THE WITNESS: No.

8 THE COURT: You still have it at home, right?

9 THE WITNESS: Yes.

10 THE COURT: And it would show that phone call that
11 you just talked about, right?

12 THE WITNESS: Yes, absolute.

13 THE COURT: What's the phone number on your mobile?

14 THE WITNESS: This is my number here (indicating).

15 THE COURT: Did you write that down?

16 THE WITNESS: This card has been made by the owner
17 of my vehicle.

18 THE COURT: No, I'm asking if he wrote it down.

19 Did you write that number down?

20 The question is: Did he write it down, yes or no?

21 THE WITNESS: This has been -- the number has been
22 handed over by the person who had it made.

23 THE COURT: I'm not asking about that piece of
24 paper. I'm asking if he wrote down his phone number.

25 THE WITNESS: This is my phone number written out

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1 here.

2 THE COURT: What is it?

3 THE WITNESS: I'm an illiterate. I do not know.

4 It's written here. I'm giving it to you.

5 THE COURT: You're not giving it to me.

6 Go ahead.

7 MR. SOSINSKY: For the record, the witness took out
8 what I understand to be --

9 THE COURT: No, nothing's been marked as an exhibit.
10 You want to mark it as an exhibit?

11 MR. SOSINSKY: We can.

12 THE COURT: I said do you want to mark it as an
13 exhibit?

14 MR. SOSINSKY: Yes, sir.

15 THE COURT: I just asked him if he wrote down his
16 number. He says he's illiterate and he pulled out a card.

17 Why don't you go ahead with your examination?

18 BY MR. SOSINSKY:

19 Q Sir, when you were working as a driver, did the parents
20 of the students get a copy of that business card, that card
21 that you took out in response to the questions about your
22 phone number?

23 A Every individual, every home has been handed over one of
24 these cards.

25 Q So as far as you know, do the parents of the students who

M. Ahmed - Direct / Sosinsky

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1 you transport on that private van have the phone number, the
2 cellular phone number to call you on that van if there's any
3 issue?

4 A All of them have it.

5 Q Now, you were telling us that you arrived in Chiryawala
6 at about 3:15 that afternoon on February 25th, 2013.

7 A Yes.

8 Q Did there come a time when you dropped off certain
9 students in Chiryawala?

10 A Yes.

11 Q Where did you drop them off first?

12 A At the Chiryawala adda.

13 Q And after dropping off certain students at the Chiryawala
14 adda stop, did you proceed to any further stops that
15 afternoon?

16 A Then I took it to my stop in my village at Chiryawala.

17 Q Did other students get off of the vehicle there?

18 A Yes, they got off.

19 Q Did you appear at a stop where your private van was met
20 by certain police officers?

21 A When I reached my stop, then there were two employees who
22 were standing out there.

23 Q And when you say "employees," were they police officers?

24 A Yes, they were police -- employees of the police force.

25 Q When the police officers met your van that afternoon, did

M. Ahmed - Direct / Sosinsky

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1 Seemab Asghar --

2 MS. HECTOR: Objection; leading.

3 THE COURT: What happened next?

4 BY MR. SOSINSKY:

5 Q What happened after the police officers met your van
6 there? Please tell us.

7 A I requested that girl to remain seated in the van. The
8 rest of the children left, and then once the officers
9 approached me, I handed over the girl to the officers.

10 Q Where was this that you handed the girl, as you referred
11 to her, off to the officers? Where did that take place?

12 A At the place where my stop is in Chiryawala.

13 Q And can you describe for us where that's located?

14 A Yes, yes.

15 Q Where is it?

16 A The Chiryawala stop is right next to Murhad's house, on
17 the road in front of his house.

18 Q I'm sorry, you mentioned the name. What is the name?

19 A Mahrada.

20 Q At the end of your trip back to Chiryawala, what did you
21 do with the van that you were driving?

22 A Then I turned the vehicle around and I went to the
23 Chiryawala gas station and I stood the vehicle there.

24 Q Did you learn of a funeral and burial that was to take
25 place the next day, that is February 26th, 2013, there in the

M. Ahmed - Direct / Sosinsky

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1 village of Chiryawala?

2 A Yes.

3 Q Did you attend the funeral proceedings and burial that
4 took place on February 26th, 2013 where Mohammad Asghar and
5 his daughter were buried?

6 MS. HECTOR: Objection; leading.

7 THE COURT: Overruled.

8 Did you go to the funeral?

9 THE WITNESS: Yes.

10 BY MR. SOSINSKY:

11 Q Did any other members of your family attend either the
12 funeral or burial that day?

13 A Yes, they were.

14 Q Did any of the other people with whom you work attend
15 either the funeral or burial that day?

16 A When I woke up in the morning, it -- there was an
17 announcement made at the place of worship, the majid, that
18 Asghar's funeral will be at eleven.

19 Q And did --

20 A I took the children to Bhimber.

21 Q And then?

22 A Then I told the other colleagues of mine who drive other
23 such vehicles that one of my student's father has passed away
24 and come along with me, I'm going to attend their funeral, and
25 then I went to attend the funeral.

M. Ahmed - Cross / Hector

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1 Q Sir, were you asked by the defense to appear and give
2 testimony at this trial here in Brooklyn, the United States?

3 A Yes.

4 Q And did the defendant's family pay for your airfare to
5 fly over here from Pakistan to New York so that you would be
6 able to give testimony at this trial?

7 A Yes.

8 Q Are you telling the truth here today about what happened
9 on February 25th, 2013?

10 MS. HECTOR: Objection.

11 THE COURT: Overruled.

12 A Absolutely.

13 THE COURT: Absolutely yes or absolutely no?

14 THE WITNESS: It's absolutely correct, I'm saying
15 the truth.

16 THE COURT: Okay.

17 Are you done?

18 MR. SOSINSKY: I'm sorry?

19 THE COURT: Do you have more questions for this
20 witness?

21 MR. SOSINSKY: I have no further questions.

22 THE COURT: Okay. Your witness.

23 CROSS-EXAMINATION

24 BY MS. HECTOR:

25 Q Good afternoon, Mr. Ahmed.

M. Ahmed - Cross / Hector

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1 A Good afternoon.

2 Q Mr. Ahmed, you've described yourself as a school bus
3 driver; is that right?

4 A Yes.

5 Q That's what you do for a living, right?

6 A Yes.

7 Q Do you have any other jobs that you work besides being a
8 school bus driver?

9 A I do the work for my house.

10 Q Anything else?

11 A No, as landowner for my house, whatever.

12 Q The school bus that you drive, that takes kids to and
13 from school, right?

14 A Yes, yes.

15 Q And you said the school bus you drive is owned by someone
16 else, right?

17 A Yes.

18 Q And that person is a private owner of the bus, right?

19 A Yes, it is a private vehicle.

20 Q And that's how it works in Chiryawala, right? Private
21 owners own the vans and buses that drive people around?

22 A Yes, that's yes.

23 Q There are government-owned buses that operate in
24 Chiryawala, right?

25 THE INTERPRETER: The interpreter would like to have

M. Ahmed - Cross / Hector

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1 the question read back.

2 THE COURT: There are government-owned buses that
3 operate in Chiryawala, correct?

4 MS. HECTOR: I'm sorry, the question is there are
5 not.

6 BY MS. HECTOR:

7 Q There are not government-owned buses that operate in
8 Chiryawala, right?

9 A No, there are no government-owned vehicles.

10 Q And if you own a bus or a van, you need permission to
11 operate it along the route for passengers, right?

12 A Yes.

13 Q You need permission from someone who holds political
14 office, right?

15 A No. The person whose vehicle it is, he bought the
16 vehicle. He asked me that, "You are an elderly person. I
17 need you to drive this vehicle. I do not need somebody young
18 to be driving those kids." So I agreed to it.

19 Q So my question is about the person who owns the vehicle,
20 Mr. Ahmed, okay?

21 A Okay.

22 Q And the question is the owner of the vehicle, to your
23 knowledge, does he need permission to operate that vehicle
24 along the route?

25 A Absolutely not.

M. Ahmed - Cross / Hector

1287

1 Q Do you know someone by the name Abid Raza?

2 A Yes, I know.

3 Q Who is Abid Raza?

4 A Abid Raza is an MNA.

5 Q What's an MNA?

6 A He is a type of government official.

7 Q Isn't it true that Abid Raza needs to give permission
8 before someone can operate a bus along the route in
9 Chiryawala?

10 A No, absolutely not.

11 Q So the bus you drive, I want to ask you a few questions
12 about that, okay?

13 A Okay.

14 Q You said about 45 to 50 kids fit in the bus, right?

15 A Yes, yes.

16 Q Are there rows of seats in your bus?

17 A There are 36 seats, six, seven seats I have put for
18 smaller children. I have some small children too.

19 Q How many rows of seats are there?

20 A There are two rows and in the center there's seats,
21 additional seats that are put.

22 Q And in total about 45 to 50 kids fit?

23 A Yes, yes.

24 Q And you take the same kids to and from school every day,
25 right?

M. Ahmed - Cross / Hector

1288

1 A Absolutely.

2 Q Male and female kids?

3 A Yes, they are small children.

4 Q And you said your route starts in Chiryawala, right?

5 A Yes.

6 Q And it ends in Bhimber?

7 A Yes.

8 Q And there aren't any stops between Chiryawala and
9 Bhimber, right?

10 A No.

11 Q And how long does it take for you to get from Chiryawala
12 to Bhimber, approximately?

13 A It takes me about 35 minutes.

14 Q And all the kids that you take to school, they all get on
15 the bus in Chiryawala, right?

16 A Yes, yes.

17 Q And they all get out of the bus in Bhimber, right?

18 A Yes.

19 Q And you were asked some questions about how the kids pay,
20 right?

21 A Yes.

22 Q Do you have a coworker on your bus that sits on the bus
23 with you and collects fares?

24 A No, there's nobody else. It's just me. Sometimes when I
25 fall sick, then the owner of the vehicle, he himself replaces.

M. Ahmed - Cross / Hector

1289

1 Q And you said there's about six or so schools that you
2 drop the kids off at in Bhimber?

3 A Yes, yes.

4 Q And is it fair to say that at the end of the day, you
5 collect all the kids from Bhimber before driving back to
6 Chiryawala?

7 A Yes.

8 Q And then you drop those kids off in Chiryawala, right?

9 A Yes.

10 Q And then once you drop the kids off, the kids walk home,
11 right?

12 A Yes. I drop them right next to the village, right next
13 to it.

14 Q Do any of the girls' or boys' parents regularly meet them
15 at the bus stop to walk them home?

16 A No, no parent has ever come.

17 Q Okay. And you said that Seemab was one of the kids you
18 took to and from school?

19 A I don't take -- she's not the only person I take. I take
20 all the children.

21 Q Okay, but she's one of them, according to you, right?

22 A Yes.

23 Q And did she take the bus to and from school with you
24 every day?

25 A Yes, absolutely, I take her and I bring her back.

M. Ahmed - Cross / Hector

1290

1 Q And you said that you pick up all the kids at 7:00 a.m.,
2 right?

3 A Yes.

4 Q So fair to say that Seemab got on the bus every day at
5 7:00 a.m.?

6 A Yes, she used to come.

7 Q And then you collect all the kids in Bhimber before
8 driving them back to Chiryawala, right?

9 A Yes.

10 Q And all of the kids get back to Chiryawala around the
11 same time, right?

12 A Yes.

13 Q And I believe you said that was, what, 3:00 or 3:15 in
14 the afternoon?

15 A Yes, about 3:15.

16 Q So you were asked some questions about February 25th,
17 2013.

18 Do you remember that?

19 A February?

20 Q February 25th, 2013.

21 A Yes, yes.

22 In the third month?

23 Q Well, let me ask it this way.

24 You were asked about the day that you got the phone
25 call from the SHO, remember that?

M. Ahmed - Cross / Hector

1291

1 A Yes, absolutely.

2 Q And before that day, is it fair to say you were driving
3 Seemab back and forth from school every day?

4 A Yes, I was taking her and bringing her back, but in that
5 month, there were for about five, seven days, about a week or
6 so that she did not go to school.

7 Q And what would Seemab generally wear to school?

8 A She used to wear they have this uniform for the school,
9 the college.

10 Q What's the uniform like?

11 A It's with white shalwar.

12 THE INTERPRETER: S-H-A-L-W-A-R.

13 A And a white shirt and a headdress.

14 Q Can you describe the headdress?

15 A Black color.

16 Q Where does the headdress go?

17 A What?

18 Q Where does the headdress go?

19 A Over the face.

20 Q Now, what's the name of the road that you drop kids off
21 in in children?

22 A That is the Chiryawala Road.

23 Q Does it have a particular name?

24 A Chiryawala's?

25 Q No, the road. Does the road have a particular name?

M. Ahmed - Cross / Hector

1292

1 A Yes, the road later on goes to Nandwal.

2 Q Besides where it goes to, does the road itself have a
3 particular name?

4 A Bhimber, from where it comes.

5 Q No, I'm sorry. The question is the road that you drop
6 Seemab off at, can you think about that road?

7 A Yes.

8 Q What is the name of that road or street?

9 A It starts from Bhimber Road, it comes to Chiryawala, and
10 then it further goes to Nandwal.

11 THE COURT: Does it have a name?

12 THE WITNESS: Yes, the name is Chiryawala Road.

13 BY MS. HECTOR:

14 Q So Mr. Ahmed, you know the defendant Mr. Ajmal Choudhry,
15 right?

16 A Yes.

17 Q And you also know Mohammad Akmal Choudhry, his brother,
18 right?

19 A Yes, I do.

20 Q And you also know his brother Mohammad Afzal Choudhry,
21 right?

22 A Yes, absolutely I know him.

23 Q Is Afzal also referred to as Nazim?

24 A Yes.

25 Q And that's because of a political position that Afzal

M. Ahmed - Cross / Hector

1293

1 held, right?

2 A No, if you vote for them, then they become a Nazim.

3 Q And Afzal did become the Nazim at some point, right?

4 A Yes.

5 Q And the defendant's brother Afzal, the Nazim, he's a very
6 powerful man in Chiryawala, right?

7 A No. There are more powerful people out there in the
8 village.

9 Q Regardless of whether there are more powerful people,
10 would it be fair to say that Afzal is also powerful?

11 A No.

12 Q You know Nisar Ahmed, right?

13 A Yes, I know.

14 Q Is he any relation to you?

15 A No.

16 Q Do you know Nisar's son Babar?

17 A Yes, I know.

18 Q Do you know Javed Iqbal?

19 A Absolutely, I know him.

20 Q He's a relative of the defendant Ajmal's, right?

21 A Who, Javed?

22 Q Yes.

23 A Yes, he's a distant relative.

24 Q And what about Mazhar Iqbal, do you know him?

25 A Yes, I know him.

M. Ahmed - Cross / Hector

1294

1 Q And what about Sain Asfaq?

2 A Yes, I know him.

3 Q Do you know the defendant's daughter Amina Ajmal?

4 A Daughter?

5 Q Yes. The defendant's daughter Amina Ajmal, do you know
6 her?

7 A Yes, I know.

8 Q Mr. Ahmed, are you aware of any instances in your village
9 over the last couple years in which a young woman has had a
10 romantic relationship outside of marriage?

11 A No.

12 Q I'm sorry?

13 A Which woman?

14 Q Are you aware of any instances in which young women in
15 your village have relationships outside of marriage that are
16 romantic?

17 A No.

18 Q Is it considered shameful within your village for a young
19 woman to have a romantic relationship outside of marriage?

20 A Yes, it's absolutely shameful.

21 Q Is Amina Ajmal married?

22 A What?

23 Q Is Amina Ajmal married?

24 A Yes, she's married.

25 Q Who is she married to?

M. Ahmed - Cross / Hector

1295

1 A With Babar.

2 Q Have you heard that Amina Ajmal had a romantic
3 relationship with someone other than Babar?

4 A No, I have no such knowledge.

5 Q Regardless of whether you have knowledge, have you ever
6 heard that Amina Ajmal had a romantic relationship with
7 someone other than Babar?

8 A No, nobody.

9 Q Do you know someone named Shujat Abbas?

10 A Yes, I know him.

11 Q Did you ever hear that Amina Ajmal had a romantic
12 relationship with Shujat Abbas?

13 A No.

14 Q Did you ever hear that Amina Ajmal ran away with Asghar's
15 son Shujat Abbas?

16 A Yes.

17 Q You did hear that, is that what you're saying?

18 A Yes, that boy had taken her.

19 Q When you say that boy had taken her, what do you mean by
20 that?

21 A With the boy?

22 Q Yes. What do you mean when you say that boy had taken
23 her?

24 A Yes.

25 Q You said that that boy had taken Amina Ajmal. Is that

M. Ahmed - Cross / Hector

1296

1 what you said?

2 A Yes.

3 Q What do you mean when you say that boy had taken Amina
4 Ajmal?

5 A I -- what I mean to say is that he did the wrong thing.
6 She was a married woman and he should not have taken her away
7 like that.

8 THE COURT: Like what?

9 THE WITNESS: That girl was already married.

10 BY MS. HECTOR:

11 Q Mr. Ahmed, at the time of -- on the day of February 25th,
12 the day you got this call on your bus from the SH0.

13 A Yes, yes.

14 Q At that time, were you aware of any issues between
15 Ajmal's family and Shujat's family?

16 A No, I had not.

17 Q You hadn't heard of any issues between the two families?

18 A No, I had not.

19 Q Mr. Ahmed, you said you know Mr. Akmal Choudhry, right?

20 A Yes.

21 Q Have you seen Mohammad Akmal Choudhry since the day that
22 you were on the bus and got that phone call from the SH0?

23 A No.

24 Q You haven't seen him since that day?

25 A No, I did not.

M. Ahmed - Cross / Hector

1297

1 Q Do you know where he is?

2 A No, I have no idea.

3 Q Have you seen him in the village walking around even from
4 a distance?

5 A No, I never saw him.

6 Q What about Nisar Ahmed, Babar's father, have you seen him
7 since that day, February 25th?

8 A No, I did not see him.

9 Q Haven't seen him walking around the village at all?

10 A No.

11 Q Did you drive any of Nisar Ahmed's kids to school?

12 A No.

13 Q Had you driven any of Nisar Ahmed's kids to school before
14 February 25th?

15 A No, never.

16 Q What about Babar, have you seen Babar since February
17 25th?

18 A No, never.

19 Q Mr. Ahmed, are you aware of an incident in which there
20 was a shooting on Asghar and Rukhsana's car?

21 A I heard about.

22 Q Did you hear about that before or after February 25th?

23 A Before that.

24 Q Who did you hear about it from?

25 A About five, ten days.

M. Ahmed - Cross / Hector

1298

1 Q Five, ten days what, before February 25th?

2 A Yes.

3 Q Who did you hear about it from?

4 A People were talking about it.

5 Q Is it fair to say that it was common knowledge in the
6 village that that had happened?

7 A About gunshots?

8 Q About the shooting on Asghar and Rukhsana's car.

9 A That -- those gunfire was outside the village.

10 Q My question is is it fair to say that it was common
11 knowledge in the village that that had happened?

12 A People were talking that they were coming from outside
13 the village, I don't know where from, and that people fired on
14 their vehicle.

15 Q But Mr. Ahmed, you're saying that you've never heard
16 about any issues between Shujat's family and Ajmal's family;
17 is that right?

18 MR. SOSINSKY: Objection to form.

19 THE COURT: Overruled.

20 A No, never.

21 Q Mr. Ahmed, you have three daughters, right?

22 A Yes.

23 Q And two of your daughters are married?

24 A Yes.

25 Q What are your daughter's names?

M. Ahmed - Cross / Hector

1299

1 A One's name Nasma and the other Afza.

2 Q Nasma and Afza?

3 A Yes.

4 Q Has the defendant ever helped you personally?

5 A No, never.

6 Q Has Akmal ever helped you personally?

7 A No.

8 Q Has Afzal ever helped you personally?

9 A No.

10 Q Which daughter is your eldest daughter?

11 A Afza.

12 Q Mr. Ahmed, are you certain that you can't think of any
13 instances in which Afzal may have helped you personally?

14 A No, none.

15 Q Mr. Ahmed, did one of your daughters run away with a boy
16 at one point?

17 A No, never.

18 Q Isn't it true that Afzal and Mazhar Iqbal helped you when
19 your daughter ran away with a boy and brought her back?

20 A The truth of matter is that my daughter never ran away
21 and nobody ever helped me to get her back. That is the truth.

22 Q Isn't it true that Afzal is the person who eventually
23 found the boy that your daughter married for her?

24 A No.

25 Q Mr. Ahmed, you described yourself as a laborer, right?

M. Ahmed - Cross / Hector

1300

1 A Yes.

2 Q Did anyone assist you in paying for your daughter's
3 wedding?

4 A No, absolutely not.

5 Q Isn't it true that Mazhar paid for your daughter's
6 wedding after she ran away and Afzal got her back?

7 A She never ran away. Nobody helped her and nor did I take
8 any help from anybody.

9 Q So Mr. Ahmed, you came here to the United States for the
10 purpose of testifying in this trial, right?

11 A Yes.

12 Q And the defendant's family paid for your travel here,
13 right?

14 A Yes, absolutely.

15 Q When did you arrive here?

16 A It's been four or five days since I came here.

17 Q And where have you been staying since you arrived here?

18 A This is the name of the person, Raja Saed.

19 Q Mr. Ahmed, are you staying at the defendant's residence
20 at 817 Foster Avenue?

21 A No, I'm staying with this person here (indicating.)

22 Q Mr. Ahmed, do you remember filling out a visa application
23 when you were in Pakistan on May 17th, 2014?

24 A No.

25 Q Do you remember filling out any paperwork that would

M. Ahmed - Cross / Hector

1301

1 assist you in coming to the United States to testify?

2 A Paperwork for what, for coming to the United States?

3 Q Yes.

4 A No, absolutely not.

5 Q Did you have to answer any questions about when you were
6 coming, where you were planning to stay, who was going to pay
7 for your ticket? Do you remember answering any questions
8 about those subjects?

9 A Nobody ever ask me any such question.

10 Q Have you ever indicated to anyone while you were in
11 Pakistan that you were planning to stay at 817 Foster Avenue?

12 A No.

13 Q Mr. Ahmed, do you know someone by the name of Irfan Shah?

14 A Yes, I know.

15 Q And it's fair to say that he's also a politician in
16 Pakistan?

17 A No.

18 Q I'm sorry?

19 THE INTERPRETER: No.

20 A He's a simple man.

21 Q What is Irfan Shah's relationship to the defendant's
22 family?

23 A He's not trying to defend himself from anything.

24 Q I'm asking about Irfan Shah.

25 The question is what is Irfan Shah's relationship to

M. Ahmed - Cross / Hector

1302

1 the defendant Ajmal Choudhry's family?

2 A I am saying that he has no relationship, nor have I ever
3 observed or seen him ever visiting him, going to his house or
4 anything like that or either heard about such a thing.

5 Q Mr. Ahmed, you described earlier that it would be
6 shameful for a young woman to have a romantic relationship
7 outside her marriage; is that right?

8 A Yes, absolutely. If a woman is married, she should not.

9 Q What about if a young woman is unmarried, is it shameful
10 for a young, unmarried woman to have a romantic or physical
11 relationship with a boy?

12 MR. SOSINSKY: Objection.

13 THE COURT: Overruled.

14 A Our parents usually ask the girl that we want you to get
15 married to so-and-so. If the girl is agreeable, then they get
16 them married to that person. If she's not, then they don't.

17 Q Mr. Ahmed, that wasn't the question I asked. Please
18 listen to the question that I'm asking.

19 Why is it shameful for a young woman to have a
20 romantic relationship outside of marriage?

21 A When a girl is married to somebody else, then it is a
22 matter of great disgrace because the person is married and
23 it's a matter of disgrace for the parents if she has an affair
24 outside of her marriage.

25 MS. HECTOR: One moment, Your Honor.

1 (Pause in the proceedings.)

2 MS. HECTOR: Your Honor, no further questions.

3 THE COURT: Your witness.

4 MR. SOSINSKY: No further questions, sir. Thank
5 you.

6 THE COURT: Step down.

7 (Witness leaves the witness stand.)

8 THE COURT: Call your next witness.

9 MR. SOSINSKY: The defendant calls Waqas Ali.

10 (Pause.)

11 MR. SOSINSKY: May I run outside to make sure he's
12 here, judge?

13 THE COURT: You can go out.

14 MR. SOSINSKY: Thank you.

15 THE COURT: You can come back.

16 (Pause.)

17 (Waqas Ali enters the courtroom and takes the
18 witness stand.)

19 **WAQAS ALI,**

20 called by the Defense, having been first duly sworn,
21 was examined and testified as follows through the interpreter:

22 THE COURT: God willing yes or just yes?

23 THE INTERPRETER: Yes as well.

24 THE COURT: I want him to answer.

25 THE WITNESS: Yes.

Ali - Direct / Sosinsky

1304

1 THE COURT: All right. Sit down. Ask your
2 questions.

3 MR. SOSINSKY: Your Honor, may we approach?

4 THE COURT: No.

5 Would you state your name, please.

6 THE WITNESS: W-A-Q-A-S A-L-I.

7 MR. SOSINSKY: May I enquire?

8 THE COURT: You may enquire.

9 MR. SOSINSKY: Thank you.

10 THE COURT: You're welcome.

11 DIRECT EXAMINATION

12 BY MR. SOSINSKY:

13 Q How old are you, sir?

14 A Twenty-five.

15 Q Are you married?

16 A Yes.

17 Q How long have you been married?

18 A Three.

19 Q And do you have any children?

20 A Yes, a son.

21 Q Where were you born, sir?

22 A My village is in the district of Gujrat.

23 Q And is that in Gujrat, Pakistan, sir?

24 A Yes, sir.

25 Q Can you tell us what the highest level of formal

Ali - Direct / Sosinsky

1305

1 education that you had?

2 A Matriculation, or metric.

3 Q And after completing metric education, did you attend any
4 other schools or vocational training?

5 A For six months I went to a technical college in Gujrat,
6 but it was an incomplete.

7 THE COURT: Sir, as a translator I'm going to ask
8 you to speak in the microphone so the jury can hear you. You
9 can pull it towards you so the jury can see the witness, but
10 it's important that the court reporter be able to hear you.

11 THE INTERPRETER: Sure.

12 BY MR. SOSINSKY:

13 Q After attending the vocational school that you told us
14 for approximately six months, what did you do then?

15 A Well, I was still in school, but then the police came
16 into the campus or the school here trying to recruit.

17 THE COURT: Sir, talk to the mic.

18 THE INTERPRETER: Sorry.

19 A Trying to recruit, but, so I got recruited.

20 Q Recruited to do what?

21 A Went for six months in training.

22 Q And what did you train to become, sir?

23 A Physical fitness, firearms, and ammo.

24 Q Are you employed currently?

25 A Yes, sir, I have a job.

Ali - Direct / Sosinsky

1306

1 Q How are you employed? What is that job?

2 A I work in a force, they call it Elite Force which is
3 based in Islamabad. That's where I work.

4 Q Are you a policeman?

5 A Yes, sir.

6 Q How long have you been a policeman?

7 A Three, six -- 2010 was the year I joined the force --
8 2007, so I've been there for ten years.

9 THE INTERPRETER: Ten years?

10 A Seven years now.

11 Q You mentioned that at the beginning of your work as a
12 police officer you had certain training; is that correct?

13 A Well, for first eight months I was part of the precinct.
14 It was subsequently that I was -- I received the training.

15 Q Where are you currently assigned or stationed?

16 A In Islamabad.

17 Q Is that a large city in Pakistan?

18 A Yes, it's the capital.

19 Q And can you tell us in 2013, in particular January and
20 February of 2013, where you were stationed or assigned at that
21 point?

22 A At Chiryawala check post there.

23 Q What is the Chiryawala check post?

24 A It's a check post at the border of Akash and Pakistan.
25 That's where the traffic's checked.

Ali - Direct / Sosinsky

1307

1 Q Back in January, February of 2013, can you tell us what
2 shift you worked?

3 A The daytime.

4 Q And approximately when would you begin work and when
5 would you end work?

6 A Eight to eight a.m. to p.m.

7 Q Now, calling your attention to February 25th of 2013,
8 were you working that day?

9 A I was, yes.

10 Q And where were you working on that day in particular?

11 A At the Chiryawala check post.

12 Q Did there come a time that day when you received a
13 communication by phone from other police officers?

14 A Yes.

15 Q And can you tell us what you learned in connection with
16 the phone calls that you received on that date?

17 A Well, the head constable there, as you recall, they're
18 from the -- from the SHO or chief inspector.

19 Q And what did the SHO or chief inspector tell you in this
20 phone call?

21 A The SHO informed the other one, yeah, that there was a
22 firing in Chiryawala and there's a fatality, there was a gun
23 firing, et cetera, and some people were hurt.

24 Q And after learning that information, what, if anything,
25 were you instructed to do at that time?

Ali - Direct / Sosinsky

1308

1 A To leave our post and rush to -- rush to this place here,
2 the site.

3 Q The site where they were telling you there had been a
4 shooting?

5 A Yes, sir.

6 Q Did you do that? Did you at some point leave the check
7 post and head to the village of Chiryawala?

8 A Yes, sir, I did, yes.

9 Q And how many other police officers also went from the
10 check post to the village of Chiryawala where you had been
11 told to proceed?

12 A Well, including me, they were four of us.

13 Q How did you travel from the check post to the scene in
14 Chiryawala where the shooting had taken place?

15 A Two motorbikes, sir. There were four of us.

16 Q On motorbike did you proceed to the spot of the shooting?

17 MR. TUCKER: Objection, Your Honor.

18 THE COURT: What's the objection?

19 MR. TUCKER: Leading, Your Honor.

20 THE COURT: What happened next? Ask it that way.

21 A Well, when we got there to Chiryawala, the approach
22 lanes, the approach roads were all clogged with people. There
23 were lots of people all over, strewn all over the place.

24 Q Please continue. What happened?

25 A Well, we kind of cleared up the -- cleared up the

Ali - Direct / Sosinsky

1309

1 approach road there. We were trying to get rid of the, you
2 know, bystanders and stragglers. We were just trying to make
3 way until the SHO showed up.

4 Q Did there come a time when the SHO did show up?

5 A Yes, he did show up.

6 Q What did you see with your eyes when you got to the crime
7 scene?

8 A I saw, yes, with my own eyes, yes, I saw a wounded man
9 and a woman, yeah, on the street, on the ground.

10 Q At some point, did you receive instructions from one of
11 the supervisors or SHO as to what you should do?

12 A Absolutely. He -- the SHO instructed every one of us to,
13 you know, a checklist of things that we had to do.

14 Q And can you tell us what in particular you were
15 instructed to do that afternoon?

16 A Well, I was told by -- by the SHO that there was one --
17 one lady there who was -- who was there crying and she had her
18 daughter in Kashmir Model School, to go and pick her up.

19 Q Did you do that?

20 A I did go, yes, sir.

21 Q How did you get from the scene where you were with the
22 SHO to the Kashmir Model School to get the woman's daughter?

23 A On a bike, motorbike.

24 Q Was that one of the motorbikes that you had driven in
25 from the check post to the scene there in the village?

Ali - Direct / Sosinsky

1310

1 A Yes, sir. Yes, sir, the same one.

2 Q Can you tell us did you arrive at some point at the
3 Kashmir Model School?

4 A Yes, I did get there.

5 Q What happened when you got there?

6 A Well, I called the SHO first and told him that the
7 principal wants to talk to this -- this particular lady.

8 Q And what happened after that?

9 A Yes, the police, you know, they talked to -- he talked to
10 the lady and they kind of verified the fact that, yes, this is
11 our daughter and please send her -- please escort her.

12 MR. SOSINSKY: Please speak into the microphone so
13 that we can all hear you.

14 THE INTERPRETER: I'm very conscious, thank you.

15 Q After the conversation between the principal and I think
16 you said the lady?

17 A Yes, they were ones to talk, yes, sir.

18 Q Could you hear what they were saying, that is on the
19 other end of the conversation?

20 A I could hear the -- I could hear the principal -- the
21 principal's end of the conversation. I didn't hear the --

22 THE INTERPRETER: I'm sorry, could I ask him to
23 repeat?

24 THE COURT: Could you hear the conversation, is what
25 he's being asked.

Ali - Direct / Sosinsky

1311

1 Ask him to repeat the answer.

2 THE INTERPRETER: (Complies.)

3 A I wasn't privy to the -- to the lady's end of the
4 conversation, but principal was in front of me. I could hear
5 it.

6 Q And after the principal spoke on the phone, can you tell
7 us what happened there at the Kashmir Model School?

8 A He talked to the lady and they sought her permission
9 there so they could send somebody to escort the child, escort
10 the student.

11 Q At some point, did you leave the Kashmir Model School
12 with that student?

13 A Yes, sir.

14 Q And how did you get from back from the Kashmir Model
15 School into the village of Chiryawala?

16 A On the motorcycle.

17 Q Did the student drive with you on that motorcycle?

18 A Yes, sir.

19 Q Can you tell us what happened --

20 MR. SOSINSKY: Well, withdrawn.

21 Q At some point, did you return to the village of
22 Chiryawala?

23 A Yes, to -- to the site of the -- to the site.

24 Q And is that where your supervisor, the SHO, was at that
25 time?

Ali - Direct / Sosinsky

1312

1 A Yes, sir, he was present there, yes.

2 Q Can you tell us what you did once you returned to the
3 scene where the SHO was?

4 A When we got there, he said that there should be
5 another -- another person to escort them because there's a bus
6 coming from college and they should be escorting them.

7 THE INTERPRETER: Can you give me the question
8 again?

9 THE COURT: Read it back, please.

10 (The requested portion of the record was read back
11 by the Official Court Reporter.)

12 A When the -- when I got there, the SHO informed me that
13 she has a daughter who's right now in the college, at college.

14 Q Did he say anything else about that?

15 A And he instructed me to go and pick up the girl from
16 the -- the student from the bus stop, from the drop-off point.

17 Q After being instructed by the SHO to do so, did you
18 proceed to meet a bus --

19 MR. TUCKER: Objection, Your Honor.

20 THE COURT: Sustained.

21 What happened next?

22 A So I along with another constable there, so we headed up
23 to this place that is the drop-off/pick up place there.

24 Q What happened when you got there?

25 A So within 30 seconds of our getting there, the bus showed

Ali - Direct / Sosinsky

1313

1 up and students started just going -- they start the coming
2 out of the bus there, and we asked the driver if he had been
3 informed by the principal there, so we asked the driver if had
4 been called by the SHO about a particular student, where is
5 she. So the driver called out the name and told the student
6 that there are some people to pick you up.

7 Q And --

8 A And that you have to go -- that she had to go with us.

9 Q What did you do after that took place, sir?

10 A So we collected her and went back to where we had come
11 from.

12 Q Is that the scene where the SHO was that you were
13 describing earlier?

14 A Yes, sir, same spot.

15 Q Now, did you --

16 THE COURT: No. What happened next?

17 A Well, the SHO later on told us we have to kind of go and,
18 you know, raid five or six homes.

19 Q And did you go with other police officers to five or six
20 homes?

21 A Yes, sir.

22 Q And was one of those homes the home of Mohammad Akmal?

23 A I'm not sure whose house was -- which was whose house.
24 We went through five or six homes there.

25 Q And how many police officers accompanied you when you did

Ali - Cross / Tucker

1314

1 what you're describing now?

2 A Well, during the raid, there were about 10 or 12 of us.

3 MR. SOSINSKY: No further questions. Thank you.

4 THE COURT: Your witness.

5 MR. TUCKER: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. TUCKER:

8 Q Good evening, Mr. Ali.

9 A Good evening to you.

10 Q So I think the jury's been able to tell, you speak some
11 English, right?

12 A Not really. I prefer Urdu.

13 Q Okay. Do you read English?

14 A No, sir.

15 Q So you told us on direct examination that you're part of
16 something called the Elite Force; is that right?

17 A That's correct.

18 Q What's the Elite Force? Tell the jury about that.

19 A It's in Pakistan, Elite Force, it's a special force.

20 They're formed basically to fight terrorism.

21 Q How long have you been part of the Elite Force?

22 A Let's say three months, but prior to that, for six months
23 I was under a training program in Islamabad.

24 Q So you were in training for six months and then you've
25 been part of this group for three months?

Ali - Cross / Tucker

1315

1 A I was trained in Lahore for six months. That's the
2 training center.

3 Q So Mr. Ali, the way this works is I have to finish my
4 question before you answer.

5 Do you understand?

6 A I understand.

7 Q And the reason we do that is so you can understand my
8 question.

9 Do you understand that?

10 A Okay.

11 Q So let me ask my question again.

12 You were part of the Elite Force for three months
13 and for six months before that you were training; is that
14 right?

15 A Correct.

16 Q So what did you do with the police nine months ago?
17 What was your assignment then?

18 A Prior to this?

19 Q Yes, prior to going off to train with the Elite Force,
20 were you in Chiryawala at that point?

21 THE INTERPRETER: I'm sorry, prior to where?

22 Q Prior to joining the Elite Force, were you assigned to
23 Chiryawala at that point?

24 A Yeah, prior to -- prior to the training, yeah, I was at
25 Chiryawala check post, yes.

Ali - Cross / Tucker

1316

1 Q How long were you at the Chiryawala check post?

2 A Maybe two-and-a-half years.

3 Q Is it fair to say that you enjoy being part of the Elite
4 Force more than working at that Chiryawala check post?

5 A I join Elite Force as a volunteer, but I enjoyed that
6 job.

7 Q You enjoyed your job in Chiryawala as well?

8 A Well, a job is a job. Wherever you go, it's just a job.

9 THE COURT: Would you please use the mic? You're
10 just so far away from it. Come on.

11 THE INTERPRETER: I'm sorry.

12 A A job is a job. It doesn't matter where you are, so
13 whether here or there, it's just a job.

14 Q Tell us about the Chiryawala check post. Where was that
15 in relation to the village of Chiryawala?

16 A Well, the police station is about seven or eight miles
17 away.

18 Q Where is the check post that you were assigned to?

19 A It's on Bhimber Road which goes to Adda Kashmir.

20 Q How far outside of Chiryawala village is the check post?

21 A Well, Chiryawala is -- it's called a Chiryawala --
22 there's a road -- there's Chiryawala, the layout of
23 Chiryawala, there's a road. Then there's a Chiryawala Adda.
24 So Chiryawala is a little further away, about a kilometer.

25 Q A kilometer away, that's the answer?

Ali - Cross / Tucker

1317

1 A Chiryawala Adda is close to the road, which is about one
2 meters from the post, check post.

3 Q How long does it take to get from the Chiryawala check
4 post to the village of Chiryawala on a motorcycle?

5 A Let's say about one kilometer away or five minutes away.

6 Q How many police officers are assigned to the check post?

7 A It's staggered, you know, different -- different postmen
8 about different times, but let's say about 12, 10 to 12 on an
9 average.

10 Q And what kind of work do you do at the check post?

11 A To flag the -- it's -- the check post -- the roads are
12 sandbagged and our job is to stop, flag the trucks, the
13 vehicles, the motorcycles and check them out.

14 Q When you were posted at the Chiryawala check post, did
15 you patrol around the village at all?

16 A No, absolutely not.

17 Q Where were you living during this time when you were
18 posted in Chiryawala?

19 A Right by the road where the check post was, it was
20 somewhere around there.

21 Q Is there like a barracks or a place where the police
22 officers stay?

23 A It is a barrack, actually.

24 Q And were you familiar with the people who lived in
25 Chiryawala village?

Ali - Cross / Tucker

1318

1 A Yes, but -- but mostly with the people who lived there or
2 passed through routinely.

3 Q You've heard of the Choudhry family before, right?

4 A One or two of them, yes.

5 Q You were familiar with them while you were living and
6 working in Chiryawala, right?

7 A Yes, sir.

8 Q And one of the people who's part of the Choudhry family
9 is Nazim, right?

10 A Correct.

11 Q What does the Nazim do?

12 A Nazim is a -- is the upshot of an election.

13 I don't know what you're asking, what the
14 responsibility is?

15 Q Exactly. What responsibility does a Nazim have?

16 A It's paperwork, fund-raising, certifications, that sort
17 of miscellaneous sort of work.

18 Q Does the Nazim work with the police at all?

19 A No, sir.

20 Q Completely separate?

21 A Yes, sir.

22 Q Now, when you're working for the police, you're getting
23 paid by the government of Pakistan; is that fair to say?

24 A Yes, sir.

25 Q And right now you're assigned to this Elite Force in

Ali - Cross / Tucker

1319

1 Islamabad, right?

2 A Well, Elite Force is -- belongs to Lahore, but I've
3 been -- belongs to Punjab, but this assignment is -- it
4 belongs -- it's headquartered in -- it belongs to Islamabad
5 actually, the capital, because they send people out to on
6 deportation from one place to the other.

7 Q And that's the --

8 THE COURT: Could you read the question back,
9 please, and translate the question?

10 (The requested portion of the record was read back
11 by the Official Court Reporter.)

12 A Yes.

13 Q And Islamabad, as you said, is the capital of Pakistan,
14 right?

15 THE INTERPRETER: I'm sorry?

16 Q Islamabad is the capital of Pakistan?

17 A Yes, sir.

18 Q I want to direct your attention back to January of 2013.

19 Do you recall an incident where there was a shooting
20 outside the village of Chiryawala?

21 A Yes, sir.

22 Q Were you on duty that day?

23 A Yes.

24 Q Did that incident involve the shooting of a Jeep?

25 A No.

Ali - Cross / Tucker

1320

1 Q It involved a shooting of a vehicle outside the village,
2 right?

3 A No.

4 Q Well, is it fair to say that there's not a lot of
5 violence in Chiryawala these days? Is that fair to say?

6 A Absolutely. There's peace, love and peace, yes.

7 Q The incident, the shooting incident that you're thinking
8 of in January, what did that involve?

9 A Give me the question again, please.

10 Q You testified that there was a shooting in January of
11 2013 outside of Chiryawala, if I understood you correctly.

12 A Well, I don't have much information about that.

13 Q I must have misunderstood you. I thought you said that
14 you were on duty that day.

15 A Can you give me the date again?

16 Q January 26th, 2013.

17 A Perhaps I was not on duty.

18 Q Okay. Why don't we move on to the subject of your
19 testimony on direct examination, and that was February 25th,
20 2013?

21 A Yes, sir.

22 Q Now, if I understood your testimony correctly, you said
23 that you first learned about this incident when you got a call
24 from your SHO.

25 Did I hear you right?

Ali - Cross / Tucker

1321

1 A Correct.

2 Q And an SHO, that stands for stationhouse officer, right?

3 A Correct.

4 Q And you testified that he called you and told you that he
5 wanted you and the other officers to come to the village,
6 right?

7 A Correct.

8 Q Now, prior to getting that phone call from your SHO, you
9 had heard gunshots earlier that day, right?

10 A Correct, absolutely.

11 Q You heard gunshots from your check post in Chiryawala,
12 right?

13 A Yes, sir.

14 Q How many gunshots did you hear?

15 A Maybe a couple of bursts.

16 Q So when you're talking about bursts of gunshots, you're
17 talking about a few shots in each burst, right?

18 A I can't verify the count in one burst.

19 Q Well --

20 A Some of them release a lot more bullets.

21 Q You've received training in firearms and weapons as a
22 police officer, right?

23 I see you nodding your head even before the
24 interpreter translates the question into Punjabi.

25 A Yes, I know, I know.

Ali - Cross / Tucker

1322

1 Q And the training that you've received included training
2 in automatic weapons, right?

3 A Correct, sir.

4 Q Automatic weapons means machine guns, right?

5 A Yes, sir.

6 Q And when you have a machine gun and you pull the trigger,
7 more than one round fires, right?

8 A Correct, absolutely.

9 Q And that's what you're talking about when you refer to a
10 burst of gunfire, right?

11 A But it was not a machine gun burst. It was not a machine
12 gun burst.

13 Q You testified that you heard a burst or several bursts of
14 gunfire on that day?

15 A Correct.

16 Q But now you're testifying that you don't think it was
17 machine gunfire, right?

18 A Well, you know what it is, might be --

19 THE COURT: Mic.

20 A You know what it is, it might be the machine gun here is
21 maybe an automatic rifle. I don't know.

22 Q So you are using the term "automatic rifle," you just
23 said that?

24 A Correct.

25 Q And an automatic rifle, to use your term, that's the gun

Ali - Cross / Tucker

1323

1 that when you pull the trigger more than one round fires; is
2 that right?

3 A Yes.

4 Q And that's what you heard on that day, February 25th?
5 You heard bursts of automatic fire, right?

6 A Yeah, like rapid fire shots, a lot of fire there.

7 Q And when you heard those bursts of rapid fire shots,
8 that's when you and the other officers got on your
9 motorcycles, right?

10 A No.

11 Q You didn't? You stayed at your check post when you
12 heard the automatic gunfire?

13 A Well, no, our assignment is to check, you know, to
14 monitor the check post, check out all vehicles that go
15 through. Until we get a call from the supervising authority
16 at the police station, we can't leave.

17 Q I see. So you just ignored the bursts of automatic
18 gunfire?

19 MR. SOSINSKY: Objection. That's not what he said.

20 THE COURT: Well, let's ask him.

21 Did you ignore the bursts of automatic gunfire?

22 Translate.

23 THE INTERPRETER: (Complies.)

24 THE WITNESS: I heard it though, yes.

25 THE COURT: Did you do anything when you heard it?

Ali - Cross / Tucker

1324

1 THE WITNESS: See, what it is is that the nearby
2 town or the city of Azad Kashmir, what they do is they fire
3 guns into air all the time.

4 THE COURT: I'm asking him a simple question, okay.
5 Did you do anything when you heard the bursts of
6 gunfire?

7 THE WITNESS: I didn't do anything, no.

8 THE COURT: Continue.

9 BY MR. TUCKER:

10 Q You eventually went to the scene of these murders, right?

11 A Yes, after we got a call from SH0.

12 Q How much time passed between when you heard the bursts of
13 gunfire and when you got the call from the SH0?

14 A You mean how much time elapsed?

15 Q Yes.

16 A Maybe five, seven minutes.

17 Q And you told us that it takes about five minutes --

18 MR. TUCKER: Strike that.

19 Q How long did it take you to get from your check post to
20 the murder scene?

21 A About five, seven minutes.

22 Q All right. So somewhere between 10 and 14 minutes
23 between when you heard the gunfire and when you get to the
24 murder scene; is that right?

25 A Absolutely, correct.

Ali - Cross / Tucker

1325

1 Q Now, when you got to the murder scene after hearing this
2 gunfire 10 or 14 minutes earlier, you testified that the wife
3 of one of the victims was already there crying, right?

4 THE INTERPRETER: I'm sorry, counselor. I didn't
5 get it.

6 THE COURT: Read the question back and translate it.

7 (The requested portion of the record was read back
8 by the Official Court Reporter.)

9 A That's correct.

10 Q And you knew that she was the wife of one of the victims
11 because she was crying, right?

12 A Yes, sir.

13 Q Had you seen that woman before that day?

14 A No, sir, never before.

15 Q Did you come to learn her name?

16 A Later on I find out.

17 Q What was her name?

18 A Rukhsana.

19 Q Now, when you got to the scene, tell the jury what you
20 saw besides Rukhsana crying there.

21 A She was despondent, she was crying, and she was making
22 calls on the cellphone.

23 Q Besides what Rukhsana was doing, describe for the jury
24 the scene of the murder, please.

25 A You mean the murder scene?

Ali - Cross / Tucker

1326

1 Q Yes.

2 A There was one man there who had -- who was in the frame
3 of a -- in the frame of a cot and the motorcycle. There was a
4 man who was fallen there.

5 What else?

6 Q Now, as a police officer, you received training about how
7 to examine a scene; is that fair to say?

8 A I'm a constable. It's usually the job of senior police
9 officers, superior police officers, SHOs, et cetera, who are
10 trained in those skills.

11 Q Did you ever receive that kind of training?

12 A No, we don't receive that kind of training.

13 Q Were you allowed to get close to the body in the time
14 frame that you were describing?

15 A We were -- we were -- we got close enough to the victim
16 there, but we couldn't touch them.

17 Q What is close enough?

18 A Very close, close enough to see them very closely.

19 Q You could see the nature of the injuries?

20 A Yes, I saw it with my own eyes.

21 Q And there were actually two victims, right?

22 A Yes, the injured bodies, there were two of them.

23 MR. TUCKER: Your Honor, if I could show what's in
24 evidence as Government's Exhibit 806 to both the witness and
25 the jury?

Ali - Cross / Tucker

1327

1 THE COURT: You may publish it.

2 MR. TUCKER: Thank you, Your Honor.

3 (The above-referred to exhibit was published.)

4 Q Mr. Ali, do you recognize that?

5 A Yes, sir.

6 Q What is it?

7 A This is the corpse of the deceased male.

8 Q Does this scene that's shown in Government's Exhibit 806
9 look like it did on that day when you arrived at the murder
10 scene 10 to 14 minutes after you heard those gunshots?

11 A No, it's not like that.

12 Q How is it different?

13 A For example, that dead body in a cot there that's
14 mid-left, that was not there. It was moved and it -- it was
15 somewhere near the front wheel of the motorcycle there by the
16 drain.

17 Q All right. So I want you to indicate, and you could
18 actually tap on your monitor, where the second body on the cot
19 is shown in Government's Exhibit 806?

20 A Somewhere where I'm pointing out there, just above the
21 motorcycle there.

22 THE COURT: Touch the screen.

23 Q You have to touch it a little firmly.

24 A Somewhere where I'm hitting now (indicating).

25 Q So you're indicating right above, it's a little hard to

Ali - Cross / Tucker

1328

1 see, right above the motorcycle.

2 A (Marking.)

3 Q Thank you, that's more helpful. So that's right above
4 the motorcycle towards the middle of Government Exhibit 806?

5 THE COURT: Is that where you're indicating, sir?
6 Look up at the screen. Is that what you're touching?

7 THE WITNESS: Not on top of the motorcycle, but it
8 was --

9 THE COURT: Well, I'll move it around. Further up
10 or down?

11 THE WITNESS: A little lower.

12 THE COURT: There (indicating)?

13 THE WITNESS: Lower.

14 THE COURT: Lower (indicating)?

15 Here, you do it. Come here.

16 Point it at the screen. Show us.

17 THE WITNESS: Right there (indicating).

18 MR. TUCKER: For the record, you're indicating, and
19 Your Honor confirm me if I'm getting this right, right above
20 where the motorcycle is shown in Government's Exhibit 806.

21 THE COURT: That's where he pointed, the record
22 should so reflect.

23 BY MR. TUCKER:

24 Q Mr. Ali, just so the record is clear, that's the location
25 where you observed the young woman's dead body when you

Ali - Cross / Tucker

1329

1 arrived at the scene; is that right?

2 A Correct, sir.

3 Q Now, you testified a moment ago that the body in
4 Government's Exhibit 806 is in a different place, right?

5 A Correct.

6 Q Just to assist the jury, can you tap on your screen and
7 show us where the body is in Government's Exhibit 806?

8 A Okay. There's two marks (indicating).

9 Q So you've marked two locations.

10 THE INTERPRETER: One is original, the other is the
11 current.

12 MR. TUCKER: Are you translating, Mr. Interpreter,
13 or are you assisting?

14 THE COURT: He's testifying.

15 MR. TUCKER: Let's stick with the witness doing
16 that.

17 BY MR. TUCKER:

18 Q Mr. Ali, I just want to be clear, and maybe I could speed
19 this along, this area here that I've just indicated toward the
20 upper left (indicating), is that where the body of the young
21 woman is shown in Government's Exhibit 806 now?

22 A Correct.

23 Q And she's on a cot there, right?

24 A Correct.

25 Q Now, you testified that you got quite close to this

Ali - Cross / Tucker

1330

1 scene, right?

2 A Correct.

3 Q And you talked about a frame, a bed frame?

4 A Yes.

5 Q And is that bed frame shown in Government's Exhibit 806?

6 A There it is (indicating.)

7 Q So for the record, you're indicating right in the middle
8 of 806 underneath the male dead body; is that right?

9 A Yeah, this is the mark (indicating.)

10 Q Did you get an opportunity to get a sense of how heavy
11 that bed frame was?

12 A About 10, 12 kilos.

13 Q Could you lift it on your own?

14 A I could pick it up easily, yes.

15 Q And this area here toward the center bottom of
16 Government's Exhibit 806, what is shown there (indicating)?

17 A This is after the deceased there was -- these are the --
18 the body parts is that splattered all over after the gunshot.

19 Q Is that blood?

20 A Blood parts of the brain.

21 Q What was the nature of the injury to the man?

22 A Well, it was like after the firing, he practically -- he
23 had fallen on the face and left side of the face was, the way
24 the shot was fired, the left side of the face was kind of
25 lost.

Ali - Cross / Tucker

1331

1 Q You testified earlier that Chiryawala is a peaceful
2 place, right?

3 A Correct.

4 Q It's fair to say that this was a pretty troubling thing
5 that you saw?

6 A Well, I'm -- I was a policeman there and I've handled --
7 I've worked in couple of times in a places in Chirywala where
8 I saw these kind of things.

9 Q Were there a lot of people in Chiryawala watching this?

10 A No, sir.

11 Q Were there people on the roofs looking down on you and
12 the other officers at the scene?

13 THE INTERPRETER: I'm sorry, can you give it to me
14 again?

15 THE COURT: Were there people looking down on you
16 and the other officers at the scene?

17 A Yes, sir, there were lots of people. They were look down
18 from the roofs and terraces upstairs and there were lots of
19 people on the street.

20 MR. TUCKER: Did you say "upstairs" or "upset," Mr.
21 Interpreter? I just couldn't hear you.

22 THE INTERPRETER: Upstairs.

23 Q From where you were standing, could you observe shell
24 casings around the bodies?

25 A Yes, sir.

Ali - Cross / Tucker

1332

1 Q What are shell casings?

2 A There they are, one -- one of the dark stain there
3 (indicating.)

4 Q So you're indicating toward the bottom right-hand corner
5 of Government's 806; is that right?

6 A (Indicating.)

7 THE INTERPRETER: The black stain right next to
8 where the color blob is.

9 Q Mr. Ali, what is a shell casing?

10 A It's got a rear part there, it looks like a coin that --
11 that pulls out and the front part of it --

12 THE INTERPRETER: Judge, could I ask him to explain
13 this again? I didn't understand.

14 THE COURT: What is a shell casing?

15 A It's a shell, it has some sort of a coin inside it, and
16 once the shell release that, that's the part that hurts the
17 body.

18 Q So is it fair to say that the casing is the part of a
19 bullet that gets ejected from a gun when the bullet's fired?

20 A There's a way for -- for the shell to kind of release
21 itself, some sort of a side maneuver.

22 Q How many casings did you see? You've indicated one in
23 Government's Exhibit 806. Were there others?

24 A There lot more, yes.

25 Q There were a lot more?

Ali - Cross / Tucker

1333

1 A It's one that was marked (indicating), there's another
2 one (indicating.)

3 Q Now, you testified that after you arrived at the murder
4 scene, your SHO asked you to go and pick up a girl from the
5 Kashmir Model School, right?

6 A Correct, sir.

7 Q And you picked her up with another police officer, right?

8 A Yes, sir.

9 Q Did you talk to her when you were transporting her back?

10 A You mean with the student?

11 Q Yes.

12 A Well, she was -- she knows to inquire of me is everything
13 okay. So we had to tell her yes, everything was okay, but
14 right now you have got to escort us -- you got to come with
15 us.

16 Q So you told the girl that everything was all right?

17 A Yes, sir.

18 Q And then you transported her to the scene?

19 A Correct.

20 Q Sitting here today, do you know the name of that girl?

21 A You mean right now?

22 Q Yes. What's her name?

23 A I don't recall her name right now.

24 Q Her face was covered when you picked her up from the
25 Kashmir Model School, right?

Ali - Cross / Tucker

1334

1 A Correct.

2 Q Now, your testimony on direct examination was that after
3 you picked up this girl from the Kashmir Model School, you
4 went and picked up a second young woman, right?

5 A Well, when I went to Kashmir Model School, the name that
6 I had been given by SHO was Nayab Kousar, that was my
7 assignment.

8 Q So now you remember her name is Nayab; is that right?

9 A Yes, sir.

10 Q That's who you picked up from the Kashmir Model School?

11 A Yes, sir.

12 Q I want to talk about the second girl that you picked up
13 now.

14 A Yes, sir.

15 Q You picked her up from the bus stop, right?

16 A Yes, the drop-off point for college girls.

17 Q And when you picked her up, you were with another police
18 officer, right?

19 A Yes, but we had walked over to that place.

20 Q So you walked over to that place from the scene of the
21 murder, do I understand you right?

22 A Yes, we walked and walked back.

23 Q How long did it take you to walk from the murder scene to
24 the place where you picked up that second girl?

25 A Maybe four minutes.

Ali - Cross / Tucker

1335

1 Q Four minutes; is that right?

2 A Correct.

3 Q Do you know the name of that second girl here today?

4 A Well, the SHO hadn't given us the second girl -- second
5 pickup's name because he had called the driver, so we spoke to
6 the driver and told him that the SHO has already spoken to
7 you, we're here to pick up a girl there, to pick up a student,
8 where is she.

9 Q Was her face covered?

10 A She had a face mask on, yes.

11 Q And then you walked her that four-minute walk back to the
12 murder scene?

13 A Yes, sir.

14 Q You arrived in the United States a few days ago, right,
15 Mr. Ali?

16 A Correct.

17 Q And you're here in the United States pursuant to special
18 parole; is that right?

19 A I don't understand that.

20 Q You aren't here on a U.S. visa, are you?

21 A I have a -- I have a letter issued by the embassy there.
22 It's not a visa stamped on a passport.

23 Q It's something else?

24 A Yes.

25 Q The Pakistani government did not pay to fly you here

Ali - Cross / Tucker

1336

1 today, right?

2 A No, sir.

3 Q You're not here in any official capacity as a Pakistani
4 police officer, right?

5 A No, sir, absolutely, no.

6 Q And you didn't get any kind of official permission from
7 the Pakistani police to testify here, right?

8 A Correct.

9 Q Is it fair to say that it wouldn't be appropriate for a
10 police officer to testify about a pending investigation
11 without authorization from his supervisor?

12 THE INTERPRETER: Judge, I don't understand. Could
13 I ask him to repeat the answer?

14 THE COURT: Read the question back, please, and then
15 translate it.

16 (The requested portion of the record was read back
17 by the Official Court Reporter.)

18 A Okay. Let me explain. So 25th of February when this
19 thing happened, that's the day when I was with the local
20 police there. Now I'm enrolled with a force that's based in
21 Islamabad, it's called Elite Force. So I -- that's the reason
22 I didn't -- I didn't tell them when I came here.

23 Q You're taking personal time to testify here today, right?

24 A Absolutely, yes, sir. So I had to -- I had to request a
25 leave kind of, it was an application for leave.

Ali - Cross / Tucker

1337

1 Q Basically vacation, right?

2 A Yes, sir.

3 Q Trip to the United States?

4 A No, I came -- I came because of the case.

5 Q I'm sorry?

6 THE INTERPRETER: "I came here because of this
7 case."

8 Q Mr. Ali, you said on direct examination that you
9 attempted to or you executed raids on certain houses after
10 these murders, right?

11 A Correct.

12 Q Did you arrest anybody when you made those raids?

13 A No, sir. Most of the homes I went through, they were
14 only, you know, women and children.

15 MR. TUCKER: I have nothing further, Your Honor.

16 THE COURT: Your witness.

17 MR. SOSINSKY: No further questions.

18 THE COURT: You may step down.

19 (Witness leaves the witness stand.)

20 THE COURT: Would you call your next witness,
21 please.

22 MR. SOSINSKY: Can I make sure he's outside?

23 THE COURT: Sure.

24 MS. GANDY: Would Your Honor indulge a restroom
25 break?

Proceedings

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1 THE COURT: I will indulge a restroom break.

2 Who's the next witness?

3 MR. SOSINSKY: Zameer Abbas.

4 THE COURT: When we come back from our bathroom
5 break, we'll have Zameer Abbas.

6 How long do you expect his direct?

7 MR. SOSINSKY: It could be 45 minutes to an hour.

8 THE COURT: How long do you expect the cross?

9 MS. GANDY: Probably about the same, Your Honor.

10 THE COURT: Would it make sense to adjourn to
11 tomorrow morning in light of what you just represented to the
12 jury and the Court?

13 MR. SOSINSKY: Yes.

14 MS. GANDY: I think it would, Your Honor.

15 THE COURT: Ladies and gentlemen, we are adjourned
16 until 9:30 tomorrow morning. Please do not talk about the
17 case. We will see you then.

18 (Jury exits the courtroom.)

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Proceedings

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1 THE COURT: The jury has left the courtroom.
2 Do we have any procedural issues to address in their
3 absence?

4 MR. TUCKER: Not from the Government, Your Honor.

5 MR. SOSINSKY: Yes, I have one.

6 THE COURT: Yes, I'm listening.

7 MR. SOSINSKY: May I be seated?

8 THE COURT: Sure.

9 MR. SOSINSKY: Judge, respectfully, I'm moving for a
10 mistrial.

11 Your Honor, for whatever reason, I think has
12 displayed to the jury with the last two witnesses a certain
13 disdain either for them personally, and in particular the
14 first witness I must say, either a disdain for them, certainly
15 for their testimony and, in my view, conveyed a disbelief of,
16 in essence, the entirety of their testimony.

17 For essentially the first time during this trial,
18 Your Honor has taken over some of the questioning,
19 challenging, for example, the first witness with regard to a
20 phone number that he has, and when he attempted to answer the
21 Court's question by reference to a business card that he then
22 testified was given to all of the parents so that they could
23 reach him, Your Honor showed, in our view, obvious disdain and
24 disgust with the entirety of that question, with the entirety
25 of that issue, I should say.

Proceedings

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1 You, in fact, at the end of the first witness's
2 testimony, in both words and manner, dismissed him from the
3 witness stand in a way that you haven't with any other witness
4 throughout this trial, and respectfully, I'm asking for a
5 mistrial. I think it's become apparent to the jury that Your
6 Honor does have a view of the credibility of those witnesses
7 that makes it very, very difficult for a jury not to look at
8 the Court and take implicit cues in terms of their ultimate
9 evaluation of witness's testimony.

10 Again, I say that respectfully, judge.

11 THE COURT: With all due respect, the motion is
12 denied.

13 The witness showed complete contempt of this court,
14 refused to even look at this court. The witness stated that
15 he could not read and then proceeded to attempt to read
16 documents. I'm not accusing counsel of suborning perjury, but
17 I am saying that certainly there was no attempt on the part of
18 this Court to convey anything with respect to the credibility
19 of this witness who says he's a bus driver and was proceeding
20 to pull out cards that he said he couldn't read. I asked him
21 to spell his name. He said he couldn't do that. He was asked
22 simply to go through the same drills that many of the
23 witnesses in this case have been asked to go through.

24 And certainly I think it is certainly, with all due
25 respect, completely without foundation to say that the Court

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1 has done anything but listen respectfully to the testimony of
2 this bus driver. So your motion is certainly denied.

3 Is there anything else, counsel?

4 MR. TUCKER: Not from the Government, Your Honor.

5 MR. SOSINSKY: That's all.

6 THE COURT: We're adjourned. See you tomorrow at
7 9:30.

8 (Time noted: 6:16 p.m.)

9 (Whereupon, the proceedings were adjourned to July
10 2, 2014, at 9:30 a.m.)
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I N D E XWITNESSPAGE

NAYAB ASGHAR

DIRECT EXAMINATION

BY MS. GANDY

1106

CROSS-EXAMINATION

BY MR. SOSINSKY

1131

MANZOOR AHMED

DIRECT EXAMINATION

BY MR. SOSINSKY

1263

CROSS-EXAMINATION

BY MS. HECTOR

1284

WAQAS ALI

DIRECT EXAMINATION

BY MR. SOSINSKY

1304

CROSS-EXAMINATION

BY MR. TUCKER

1314

E X H I B I T S

Defendant's Exhibit B 1141

Defendant's Exhibit C 1142

Government's Exhibit 1100 1103

Government's Exhibit D 1142

Defendant's Exhibit D 1258

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